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United States. Office of Commissioner of Internal Revenue.

TREASURY DECISIONS

UNDER INTERNAL-REVENUE LAWS OF THE UNITED STATES

VOL. 19

JANUARY–DECEMBER, 1917

W. G. McADOO
Secretary of the Treasury

WASHINGTON
GOVERNMENT PRINTING OFFICE
1918

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INTRODUCTION.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 31, 1917.

To officers of internal revenue and others:

The within decisions of the Commissioner of Internal Revenue, rendered during the calendar year 1917, upon the construction to be given to the various acts of Congress relating to the internal revenue, are published for the information and guidance of officers of the internal revenue and others concerned.

This volume contains Treasury Decisions numbered 2429 to 2627, inclusive, and embraces all regulations and rulings of the Treasury Department made during the calendar year ended December 31, 1917.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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INTERNAL REVENUE.

(T. D. 2429.)

Capital-stock tax.

"Holding companies" organized in the United States for profit are subject to the special excise tax, and should file returns on Form 707.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 4, 1917.

SIR: Receipt is acknowledged of your letter of the 29th ultimo, stating that the ——— Co. is a "holding company" for several subsidiary corporations and its only business is to receive dividends and interest from the operating companies, pay interest on its own in-indebtedness, and distribute its surplus income as dividends among its own stockholders. You contend, therefore, that the "holding company" is not engaged in business under the decision made in the case of the United States *v.* Nipissing Mines Co. (206 Fed., 431), referred to in T. D. 2418.

In reply, you are advised that this office has never acquiesced in the decision of the court in the case of United States *v.* Nipissing Mines Co., supra, and the question of whether a corporation organized for the purpose of acquiring and holding all the capital stock of subsidiary companies, and actually engaged in holding such stock, voting thereon, receiving dividends when paid by the subsidiaries, keeping books, and paying out money to its own shareholders, is doing business within the meaning of the corporation-tax act of August 5, 1909, is now pending in the Circuit Court of Appeals for the Southern District of New York in the case of Anderson *v.* El Rayo Mines Co. It is understood that the case of Anderson *v.* El Rayo Mines Co. will be taken up as soon as a decision is made by the Supreme Court of the United States in the case of Baumbach, collector, *v.* Sargent Land Co. et al. (219 Fed., 31), which is now before that court on writ of certiorari.

This office is of the opinion, therefore, that a "holding company," organized in the United States for the purpose of acquiring and holding capital stock of subsidiary companies, and actually engaged in holding such stock, voting thereon, receiving dividends thereon,

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and distributing money among its own shareholders is engaged in business within the meaning of the act of September 8, 1916, and is subject to the special excise tax imposed under section 407.

A ruling to this effect will be published in the weekly edition of Treasury decisions, and will be followed by the department until the Supreme Court decides to the contrary.

This ruling applies to all "holding companies" organized in the United States for profit, even though the subsidiary companies operate exclusively in foreign countries.

In answer to your reference to the cases published in T. D. 2418, especially the case of the United States *v.* Nipissing Mines Co., your attention is directed to the first paragraph of that Treasury decision, stating that the court decisions in cases arising under the corporation-tax act would be followed under the present act only in so far as they are final or have been acquiesced in by the department.

"Holding companies" will be required to file returns on Form 707, the same as other corporations, and will be held strictly liable to the penalties imposed for failure to make such returns within the time prescribed by law.

Respectfully,

W. H. Osborn,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2430.)

Formula for special denaturation of alcohol.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., January 2, 1917.

To collectors of internal revenue and others:

The following formula, designated as No. 26, has been approved for the special denaturation of alcohol to be used exclusively in the manufacture of ethylaniline and diethylaniline:

To every 100 wine gallons of ethyl alcohol add 5 gallons of aniline oil.

The aniline oil is to contain not less than 95 per cent pure aniline (straw or reddish colored) of specific gravity of 1.026 at 15° C.—B. P. 181°.

Officers are instructed to exercise great caution in recommending the granting of permits for the use of this denaturant, both as to the standing and the responsibility of the applicant and the character of the premises described in the application, and in every case the application must be accompanied by blue print or drawing, the same to be duly sworn to, and a detailed description of the process.

W. H. Osborn,
Commissioner of Internal Revenue.

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(T. D. 2431.)

Instructions relative to the construction of distillery warehouses.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 9, 1917.

To collectors, revenue agents, and others:

Upon the suggestions of a committee composed of internal-revenue collectors and revenue agents, in order better to secure the safety of spirits stored in distillery warehouses, the following regulations are hereby prescribed:

A room or building to be approved for the storage of distilled spirits shall be of substantial wood, brick, concrete, or other material, and shall be so constructed as to render it impossible to be entered in the absence of the storekeeper without such violence as to render the entry easy of detection. Slat warehouses or warehouses constructed of thin or flimsy wooden sheathing will not be approved. A warehouse must have a suitable floor of wood, concrete, or brick, proper lighting facilities, and no more doors than are necessary in the proper and convenient conduct of the distiller's business. The doors and other openings must lead into the public street or into the distillery yard.

All distillery warehouses hereafter constructed shall be erected upon stone, brick, or concrete foundations extending into the ground, but, if heretofore erected upon pillars or posts, the entire substructure shall be iron clad or boxed in from the ground to the bottom of the first floor, so as to prevent entrance under the warehouses. Iron-grated or iron-barred openings for ventilation or heating will be allowed in foundation walls and floors.

All doors must be of substantial construction, of heavy timber or iron or other substantial material. The hasp and staple or bolt to which the Government lock is affixed must be securely fastened on the inside. All doors but the one bearing the Government seal lock must be securely barred inside, and for this purpose a crossbar must be provided, placed in the middle of the door and so secured that it can not be turned from the outside. Strong and suitable attachments must be provided inside the warehouse for Government locks (not seal locks) in addition to the crossbars. Such locks will be affixed and the keys will remain in the possession of the storekeeper or storekeeper-gauger in charge. In addition, where there are double doors, one of them, at least, must be provided in the middle with substantial bolts at both the top and the bottom. These bolts must be arranged so as to plunge into substantial fastenings or holes in

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the frame of the door. The hinges to the doors and shutters must be secured by round-headed or carriage bolts, to be nutted and riveted or battered. Hinges that can not be thus riveted should be so attached that they can not be removed when the doors or windows are closed, rendering them inaccessible from the outside.

The windows on the first floor and basement floor, if within 10 feet of the ground or an adjacent roof, must be secured by iron bars and shutters substantially constructed of iron or wood, or, in the place of solid shutters, the windows may be of small (approximately 12 by 18 inches) wire-glass panes or wire reinforced glass in metal sash. All windows which are inaccessible without the use of ladders or other mechanical appliances are not required to be secured by bars or shutters. Where iron bars are required, which have not been provided, they and all such as are hereafter to be installed must be placed perpendicularly in the windows and the bars must not be less than three-fourths of an inch in diameter and be placed not more than 5 inches apart and be reinforced by crossbars not less than 36 inches apart. These bars or gratings must be so fastened to the window frames or embedded in the walls as to afford proper security. The shutters must be fastened inside and be so secured that they can not be opened from the outside and all window sashes must be provided with sash locks or other suitable fastenings. Skylights will be regarded as windows and treated as such in the construction of warehouses, and must be protected by suitable iron bars.

The application made by the distiller for the approval of a warehouse must accurately describe in every detail its construction and the method of securing the doors and windows so as to show that all of the foregoing and other requirements have been observed, the same to be verified by the collector's certificate of examination.

All warehouses heretofore constructed must be made, so far as practicable and as soon as possible, to conform to these requirements, and those hereafter constructed must be in conformity herewith.

Obviously there may be details and methods of construction not covered hereby, but in any departure from the methods prescribed the same security and protection to the spirits in warehouse must be afforded, and where any doubt prevails in regard thereto the matter should be referred to the Commissioner of Internal Revenue.

Any regulations or instructions inconsistent herewith are hereby rescinded.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

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(T. D. 2432.)

Whisky bottled in bond.

Overproof not exceeding 101° not regarded as cause for detention of whisky bottled in bond

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 6, 1917.

SIR: This office is in receipt of your letters of December 26, 28, and 30, 1916, inclosing communications from several distillers in your district relative to whisky bottled in bond, the proof of which when found on the market exceeds 100°.

You are advised that when whisky bottled in bond is found on the market the actual proof of which does not exceed 101°, this office will not regard such overproof as cause for detention of the spirits.

When the proof of spirits bottled in bond is found on the market to be over 100.3° the facts should be reported to this office, in order that when deemed necessary an investigation may be made of the bottling warehouse where the spirits were bottled.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR OF INTERNAL REVENUE,
Lexington, Ky.

(T. D. 2433.)

Corporation income tax.

Corporations keeping books in accordance with standard systems of accounting or in conformity with the requirements of some Federal, State, or municipal authority having supervision over such corporations, may make their returns on the basis on which their books are kept, provided the books so kept and the returns so made reflect the true net income of the corporations for each year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 8, 1917.

To collectors of internal revenue:

Subparagraph (d) of section 13 of Title I of the act of September 8, 1916, provides that—

A corporation, joint stock company or association, or insurance company, keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, make its returns upon the basis upon which its accounts are kept, in which case the tax shall be computed upon its income as so returned.

Under this provision it will be permissible for corporations which accrue on their books monthly or at other stated periods amounts

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sufficient to meet fixed annual or other charges to deduct from their gross income the amounts so accrued, provided such accruals approximate as nearly as possible the actual liabilities for which the accruals are made, and provided that in cases wherein deductions are made on the accrual basis as hereinbefore indicated income from fixed and determinable sources accruing to the corporations must be returned, for the purpose of the tax, on the same basis.

In cases wherein, pursuant to the consistent practice of accounting of the corporation, or pursuant to the requirements of some Federal, State, or municipal supervising authority, corporations set up and maintain reserves to meet liabilities, the amount of which and the date of payment or maturity of which is not definitely determined or determinable at the time the liability is incurred, it will be permissible for the corporations to deduct from their gross income the amounts credited to such reserves each year, provided that the amounts deductible on account of the reserves shall approximate as nearly as can be determined the actual amounts which experience has demonstrated would be necessary to discharge the liabilities incurred during the year and for the payment of which additions to the reserves were made; and provided, if it shall be found that the amount credited to any such reserve is in excess of the reasonable or probable needs of the corporation to meet and discharge the liabilities for which the reserve is credited, the excess of such reserve over and above the reasonable or probable needs for the purpose indicated shall be at once disallowed as a deduction and restored to income for the purpose of the tax; and provided further, that in no event will sinking funds or other reserves set up to meet additions, betterments, or other capital obligations constitute allowable deductions from gross income.

This ruling contemplates that the income and authorized deductions shall be computed and accounted for on the same basis and that the same practice shall be consistently followed year after year. Amounts paid in discharge of any liability or obligation for which a reserve has been set up, as hereinbefore outlined, will, when paid, be charged to the reserve created to meet it in so far as such reserve is sufficient to meet the liability, provided always that the liability is of a character which constitutes an allowable deduction within the meaning of the law.

If upon investigation it shall be found that returns made upon the basis of accruals and reserves do not reflect the true net income, the corporation so failing in this way to return the true net income will not thereafter be permitted to make its returns upon any basis other than that of actual receipts and disbursements.

The reserves contemplated by the foregoing ruling are those reserves only which are set up to meet some actual liability incurred, the

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amount necessary to discharge which can not at the time be definitely determined, and do not contemplate reserves to meet losses contingent upon shrinkage in values, losses from bad debts, capital investments, etc., which losses are deductible only when definitely determined as the result of a closed or completed transaction and are charged off.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2434.)

Denaturants.

Pure chemical salts submitted as denaturants not to be analyzed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 18, 1917.

To collectors of internal revenue and others concerned:

You are informed that in all cases where a chemically or commercially pure or a U. S. P. salt or solid is used as a denaturing material, the same need not be submitted for test, provided the material is delivered to the storekeeper-gauger in charge in a sealed package, bearing seal and label descriptive of its contents, placed thereon by a reputable manufacturer of chemicals.

You are requested to issue proper instructions to the officers in your district.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2435.)

Distilled spirits in bonded warehouses.

Modifying T. D. 2409 of December 9, 1916, regarding excessive loss of bonded spirits.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 11, 1917.

SIR: This office is in receipt of your letter of the 21st ultimo, relative to T. D. 2409, on the subject of excessive losses of distilled spirits in bonded warehouses, and calling attention to the conditions named in the fourth paragraph of the decision under which packages showing excessive loss may remain in warehouse until the spirits contained therein are eligible for bottling in bond.

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Replying, you are informed that the paragraph, so far as it limits the excessive loss in such cases, should read:

Packages showing a loss exceeding 50 per cent over the maximum statutory allowance but *not* exceeding 3 proof gallons * * * may be permitted to remain in warehouse until the spirits therein contained are eligible for bottling in bond * * *.

You will please so notify the various distillers to whom you have sent copies of the decision referred to.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR FIFTH DISTRICT, *Louisville, Ky.*

(T. D. 2436.)

Corporation excise tax—Act of Aug. 5, 1909—Decision of United States Supreme Court.

1. DOING BUSINESS.

The definition of the term "doing business" which has been judicially approved is that which occupies the time, attention, and labor of men for the purpose of a livelihood or profit. A fair test to be derived from consideration of the Supreme Court decision is that a corporation which has reduced its activities ot the owning and holding of property and the disposition of its avails and doing only the acts necessary to continue that status is not "doing business," and one which is still active and maintaining its organization for the purpose of continued efforts for profit and gain and such activities as are essential to those purposes is regarded as "doing business." The activities of the corporation in question constituted doing of and engaging in business under the decision of the court. The corporation-tax act required no particular amount of business in order to bring a company within its terms.

2. MINING LEASES.

The theory that the leases were mere conveyances of the ore in place is not sustained.

3. INCOME.

Moneys received by the corporation in payment for iron ore under the contracts made as so-called royalties amount to income so as to bring such payments within the scope of the corporation-tax act.

4. DEPRECIATION.

No allowance should be made for depreciation on account of the depletion of the property by removing the ores from the mines in question. Congress used the expression "depreciation of property" in its ordinary and usual sense as understood by business men. The value of the mine is lessened from the partial exhaustion of the property, but such exhaustion of the body of the ore can not be deemed depreciation.

5. CAPITAL ASSETS.

The question of allowance because of sales of stumpage, lots, and lands belonging to the company as an exhaustion of its capital assets is not involved in this decision.

6. REVERSAL OF THE JUDGMENTS IN THE LOWER COURT.

The decisions of the United States District Court (207 Fed., 423) and the Circuit Court of Appeals (219 Fed., 31) reversed and cases remanded to the District Court for

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further proceedings upon claim of right to deduct the value of the lands, lots, and stumpage sold from the assessments made, if any is sought.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 19, 1917.

The appended decision of the Supreme Court of the United States in the cases of Fred Von Baumbach, collector of internal revenue, petitioner, *v.* Sargent Land Co., Same *v.* Sutton Land Co., and Same *v.* Kearsarge Land Co., is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

SUPREME COURT OF THE UNITED STATES: Nos. 286, 287, and 288. OCTOBER TERM, 1916.

Fred Von Baumbach, collector of internal revenue, petitioner, v. *Sargent Land Co., Same* v. *Sutton Land Co., and Same* v. *Kearsarge Land Co.*

WRITS of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit.

[January 15, 1917.]

Mr. Justice DAY delivered the opinion of the court:

These three cases were argued and submitted together and involve practically the same facts. Suits were brought by the corporations named in the United States District Court for the District of Minnesota against the collector of internal revenue to recover certain taxes, paid under protest, assessed under the corporation-tax law of 1909 (36 Stat., 11, 112) for the years 1909, 1910, and 1911. The judgments in the District Court were for the respondents (207 Fed., 423), which judgments were affirmed in the Circuit Court of Appeals (219 Fed., 31).

In 1890, John S. Pillsbury, George A. Pillsbury, and Charles A. Pillsbury, doing business together as John S. Pillsbury & Co., were the owners of large tracts of lands in northern Minnesota, which had been acquired for the timber and from which the timber had been cut, being valuable after such severance of the timber for the mineral deposits contained therein. In the year named the Pillsburys entered into an arrangement with John M. Longyear and Russell M. Bennett authorizing the latter two to explore the lands for iron deposits. In 1892 Longyear and Bennett having discovered valuable deposits of iron ore a half interest in something over 10,000 acres of the lands was conveyed to them, the lands thereafter being owned by the Pillsburys (John, George, and Charles), each an undivided sixth, and John M. Longyear and Russell M. Bennett each an undivided fourth. In the year 1901 the Pillsburys having died, these corporations were formed under the laws of Minnesota. In 1906 the ownership of these leased lands was vested in the three corporations named as respondents in the proceedings. As originally organized, the nature of the business was stated to be "the buying, owning, exploring and developing, leasing, improving, selling, and dealing in lands, tenements and hereditaments, and the doing of all things incidental to the things above specified." In December, 1909, the articles of incorporation were amended to read as follows:

The general purpose of the corporation is to unite in one ownership the undivided fractional interests of its various stockholders in lands, tenements, and hereditaments, and to own such property, and, for the convenience of its stockholders, to receive and distribute to them the proceeds of any disposition of such property, at such times, in such amounts, and in such manner as the board of directors may determine.

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All of the mining leases hereinafter mentioned, with the exception of a contract with the Van Buren Mining Co., were executed before the organization of the corporations. Each of these instruments provided that the owners of the property demised to the lessees, exclusively, all the lands covered by the descriptions for the purpose of exploring for, mining, and removing the merchantable iron ore which might be found therein for and during the period named, usually 50 years. The lessees were given exclusive right to occupy and control the demised premises and to erect all necessary buildings, structures, and improvements thereon. Right was reserved to the lessors to enter for the purpose of measuring the amount of ore mined and removed and making observations of the operations in the mines. The lessees agreed to pay, in most cases, 25 cents per ton for all ore mined and removed, and to make such payments monthly for ore mined and shipped during the preceding month. The lessees agreed to mine and ship a specified quantity of ore in each year, and, in default of this, to pay the lessors for the minimum amount specified, and take credit therefor and apply such sums upon ore mined and shipped thereafter in excess of such minimum. The lessees were to pay the taxes and to keep the property free from encumbrances and liens. Right was reserved to terminate the contract upon the failure of the lessees to comply with the terms thereof.

The form of the leases is shown in Exhibits 15 and 16, which were not in the printed record owing to their length, but copies of which, pursuant to stipulation, have been sent to this court. An examination of Exhibit 16 shows that the lessees had the right to terminate and surrender the lease by giving the lessors, or those having their estate in the premises, 60 days' written notice, and executing sufficient conveyances releasing all interest and right of the lessees in the premises with any improvements thereon, and surrendering the same in good order and condition, etc., and that thereupon all liability of the lessees to taxes subsequently assessed on the demised premises or for rent thereof thereafter to accrue, or royalty on ores therefrom except on account of ores removed, should cease and determine; the lessees to be liable for all ores removed from the premises not theretofore paid for, and to pay for the premises rent or royalty for the year in which termination should be made, or the portion thereof which should have expired, at the rate of $12,500 per annum.

Since their organization the corporations have disposed of certain lands and have also disposed of the stumpage on some timber lands. Certain parcels were rented and leased, and a village was allowed to use part of the land for schoolhouse purposes, as well as another part for a public park.

To insure the proper carrying on of the mining operations, the companies employed another corporation, engaged in engineering and inspection of ore properties, to provide supervision and inspection of the work upon the respondents' properties, for which the inspecting company was paid from month to month, as statements were rendered.

The companies were assessed upon their gross income, being the entire receipts of the companies from royalties on the leases collected in the years 1909, 1910, and 1911, and some sums received from the sales of lots, lands, and stumpage, from which expenses and taxes were deducted, but no deduction was made upon account of the depletion of the ore in the properties, or on account of such sales.

The brief for the respondents states that these cases present for consideration four questions, which are:

(1) Are the respondents corporations organized for profit?

(2) Were the respondents carrying on or doing business during the years 1909, 1910, 1911?

(3) Were moneys received by the respondents during those years in payment for iron ore, under the contracts covering their mineral lands, gross income, or did they represent, in whole or in part, the conversion of the investment of the corporations from ore into money?

(4) If such moneys were gross income, are the respondents entitled to make any deduction therefrom on account of the depletion of their capital investment?

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As to the first question, whether these corporations were organized for profit, there can be no difficulty. They certainly do not come within the exceptional character of charitable or eleemosynary organizations excepted from the operation of the act. We need not dwell upon the obvious purpose of these corporations, organized under the provisions of the Minnesota statute concerning companies organized for profit, to pursue gain and to profit because of their operations.

As to the second question, Were the respondents carrying on business within the meaning of the corporation-tax act? This question was dealt with by this court in the first of the corporation-tax cases, Flint *v.* Stone Tracy Company (220 U. S., 107). As the tax was there held to be assessed upon the privilege of doing business in a corporate capacity, it became necessary to inquire what it was to do business, and this court adopted with approval the definition, judicially approved in other cases, which included within the comprehensive term "business" "that which occupies the time, attention, and labor of men for the purpose of a livelihood or profit."

In that case a number of realty and mining companies were dealt with, and the Park Realty Co., organized to deal in real estate, and engaged at the time in the management and leasing of a certain hotel, was held to be engaged in business. It was also held that the Clark Iron Co., organized under the laws of Minnesota, and owning and leasing ore lands for the purpose of carrying on mining operations and receiving a royalty depending upon the quantity of ore mined, was engaged in business.

At the same time, and decided with the main corporation tax case, this court held in the case of Zonne *v.* Minneapolis Syndicate (220 U. S., 187) that a corporation which owned a piece of real estate which had been leased for 130 years, at an annual rental of $61,000, and which had amended its articles of incorporation so as to limit its purposes to holding the title to the property mentioned, and, for the convenience of its stockholders, to receiving and distributing from time to time the rentals that accrued under the lease and the proceeds of any disposition of the land, was not engaged in doing business within the meaning of the act, by reason of the fact that the corporation had practically gone out of business and had disqualified itself from any activity in respect thereto.

The act next came before this court in the case of McCoach, collector, *v.* Minehill Railway Co. (228 U. S., 295), in which it was held, distinguishing the case of the Park Realty Co., supra, and applying the case of Zonne *v.* Minneapolis Syndicate, supra, to the facts before the court, that a corporation which had leased all its property to another, and was doing only what was necessary to receive and distribute the income therefrom among stockholders, was not doing business within the meaning of the act.

In United States *v.* Emery (237 U. S., 28) this court held that a corporation which merely kept up its organization, distributing rent received from a single lessee, was not doing business within the meaning of the act.

It is evident, from what this court has said in dealing with the former cases, that the decision in each instance must depend upon the particular facts before the court.

The fair test to be derived from a consideration of all of them is between a corporation which has reduced its activities to the owning and holding of property and the distribution of its avails, and doing only the acts necessary to continue that status, and one which is still active and is maintaining its organization for the purpose of continued efforts in the pursuit of profit and gain and such activities as are essential to those purposes.

From the facts clearly established in these cases, we think these corporations were doing business, within the meaning of the act. They were organized for the purposes stated, and their activities included something more than the mere holding of property and the distribution of the receipts thereof. As was found by the District Court, the evidence shows that these three companies sold, during each of the years named, quantities of real estate, and the same were not small. They sold stumpage from some of the properties which had been burned over, leased certain properties in the village

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of Hibbing, and granted leases to squatters. One of the companies made explorations and incurred expenses in the matter of test pits. They employed another company to see that the mining operations were properly carried on, and that the lessees lived up to the engagements of their contracts. "All these things indicate," said the learned district judge, "the doing of and engaging in business. It [the corporation] was doing the business of handling a large property, selling lots, and seeing that the lessees lived up to their contracts. If that is not engaging in business, I do not know what is." We agree that it certainly was doing business, and, as the corporation-tax act requires no particular amount of business in order to bring a company within its terms, we think these activities brought the corporations in question within that line of decisions in this court which have held such corporations were doing business in a corporate capacity within the meaning of the law.

Next, is it true, as contended by the Government, that the payments for ore mined, under the contracts covering the mineral lands, are income within the meaning of the act, or do they represent the conversion of the investment of the corporations from ore into money?

The nature of these mining leases has been the subject of some difference of opinion in the courts. The Circuit Court of Appeals in this case took the view announced in some of the earlier cases, notably in Pennsylvania, that the leases were such in name only, and were in fact conveyances of the ore in place as part of the realty, and that the so-called royalties merely represented payments for so much of the land and were in no just sense income, but mere conversions of the capital.

These lands are situated in Minnesota, and this character of lease has long been familiar in that State, as a means of securing the development and operation of mining properties. Some years before the passage of the corporation-tax act, the Supreme Court of Minnesota had dealt with the character of such instruments. In the case of State *v.* Evans (99 Minn., 220) that court, after a review of the English and American cases, said (p. 227):

> The propriety of a lease for the purpose of developing and working mines is recognized by all of the cases, and the rule established by the great weight of authority that such leases do not constitute a sale of any part of the land, and, further, that iron or other materials derived from the usual operation of open mines or quarries, constitute the rents and profits of the land, and belong to the tenant for life or years, and to the mortgagor after sale on foreclosure, and before the expiration of the time for redemption. The rule, however, has no application to unopened mines in the absence of a contract, express or implied, for opening and leasing them.

The same doctrine was held in Boeing *v.* Owsley (122 Minn., 190), and in the late case of State *v.* Royal Mineral Association (156 Northwestern Reporter, 128), in which the decision of the Circuit Court of Appeals in this case, that such leases were merely conveyances of the ore in place, was brought to the attention of the court, and that conclusion expressly denied, the Supreme Court of Minnesota saying:

> We adhere to the doctrine of the Evans and Boeing cases, and hold these instruments leases. It follows logically that the amounts stipulated to be paid by the lessees are rents, and they were expressly held by this court to be rents in the Boeing case, supra, a case which involved a construction of the very leases now before the court. They are "the compensation which the occupier pays the landlord for that species of occupation which the contract between them allows." Lord Dennison, in Queen *v.* Westbrook (10 Q. B., 178, 205).

These conclusions of the Supreme Court of Minnesota are not only made concerning contracts in that State, such as are here involved, but are supported by many authorities.[1] Ordinarily, and as between private parties, there is no question of the duty of the Federal court to follow these decisions of the Minnesota Supreme Court as a

[1] Raynolds *v.* Hanna (55 Fed., 783, 800, 801); Tennessee Oil, etc., Co., *v.* Brown (131 Fed., 696, 700), opinion by Lurton, J.; Browning *v.* Boswell (215 Fed., 826, 834); Backer *v.* Penn Lubricating Co. (162 Fed., 627); Young *v.* Ellis (91 Va., 297); Gartside *v.* Outley (58 Ill., 210); Genet *v.* Delaware Co. (136 N. Y., 602); Lacy *v.* Newcomb (94 Iowa, 287); Austin *v.* Huntsville Co. (72 Mo., 535); Brown *v.* Fowler (65 O. S., 507 ,521); Queen *v.* Westbrook (10 Q. B., 178, 205).

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rule of real property long established by State decisions. Kuhn *v.* Fairmont Coal Co. (215 U. S., 349, 360). Whether in considering this Federal statute we should be constrained to follow the established law of the State, as is contended by the Government, we do not need to determine. The decisive question in this case is whether the payments made as so-called royalties amount to income, so as to bring such payments within the scope of the corporation tax act of 1909. The prior decisions of this court in Stratton's Independence *v.* Howbert (231 U. S., 399) and Stanton *v.* Baltic Mining Co. (240 U. S., 103), in which the Stratton case was followed and approved, are decisive of this question. In the Stratton case certain questions were certified to this court from the Circuit Court of Appeals for the Eighth Circuit. The case was tried upon an agreed statement of facts, from which it appeared—

As to the year 1909, that the company extracted from its lands during the year certain ores bearing gold and other precious metals, which were sold by it for sums largely in excess of the cost of mining, extracting, and marketing the same; that the gross sales amounted to $284,682.85; the cost of extracting, mining, and marketing amounted to $190,939.42; and "the value of said ores so extracted in the year 1909, when in place in said mine and before extraction thereof, was $93,743.43." With respect to the operations of the company for the year 1910 the agreed facts were practically the same, except as to dates and amounts. It does not appear that the so-called "value of the ore in place," or any other sum, was actually charged off upon the books of the company as depreciation.

The Circuit Court of Appeals certified three questions to this court:

(1) Does section 38 of the act of Congress entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909 (36 Stat., p. 11), apply to mining corporations?
(2) Are the proceeds of ores mined by a corporation from its own premises income within the meaning of the aforementioned act of Congress?
(3) If the proceeds from ore sales are to be treated as income, is such a corporation entitled to deduct the value of such ore in place and before it is mined as depreciation within the meaning of section 38 of said act of Congress?

This court answered the first and second questions certified in the affirmative and the third question in the negative. In that case, as here, it was contended that the proceeds of the mining operations resulting from a conversion of the capital represented by real estate into capital represented by cash are in no true sense income. As to this contention this court said:

The peculiar character of mining property is sufficiently obvious. Prior to development it may present to the naked eye a mere tract of land with barren surface, and of no practical value except for what may be found beneath. Then follow excavation, discovery, development, extraction of ores, resulting eventually, if the process be thorough, in the complete exhaustion of the mineral contents so far as they are worth removing. Theoretically, and according to the argument, the entire value of the mine, as ultimately developed, existed from the beginning. Practically, however, and from the commercial standpoint, the value—that is, the exchangeable or market value—depends upon different considerations. Beginning from little, when the existence, character, and extent of the ore deposits are problematical, it may increase steadily or rapidly so long as discovery and development outrun depletion, and the wiping out of the value by the practical exhaustion of the mine may be deferred for a long term of years. While not ignoring the importance of such considerations, we do not think they afford the sole test for determining the legislative intent.

This court held that it was not correct to say that a mining corporation was not engaged in business, but was merely occupied in converting its capital assets from one form to another, and that while a sale outright of a mining property might be fairly described as a conversion of the capital from land into money, the process of mining is, in a sense, equivalent to a manufacturing process, and however the operation shall be described, the transaction is indubitably "business" within the meaning of the act of 1909, and the gains derived from it are properly the income from business, derived from capital, from labor, or from both combined. Further—

As to the alleged inequality of operation between mining corporations and others, it is of course true that the revenues derived from the working of mines result to some

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extent in the exhaustion of the capital. But the same is true of the earnings of the human brain and hand when unaided by capital, yet such earnings are commonly dealt with in legislation as income. So it may be said of many manufacturing corporations that are clearly subject to the act of 1909, especially of those that have to do with the production of patented articles; although it may be foretold from the beginning that the manufacture will be profitable only for a limited time, at the end of which the capital value of the plant must be subject to material depletion, the annual gains of such corporations are certainly to be taken as income for the purpose of measuring the amount of the tax.

It is contended that this case is inapplicable, because the facts disclose that the ores were being mined by a corporation upon its own premises. In our view, this makes no difference in the application of the principles upon which the case was decided. We think that the payments made by the lessees to the corporations now before the court were not in substance the proceeds of an outright sale of a mining property, but, in view of the terms of these instruments, were in fact rents or royalties to be paid upon entering into the premises and discovering, developing, and removing the mineral resources thereof, and as such must be held now, as then, to come fairly within the term "income" as intended to be reached and taxed under the terms of the corporation-tax act.

In Stanton *v.* Baltic Mining Co., supra, the income-tax law of 1913 was before the court, and it was contended that the clause in that act limiting the mines to a maximum depreciation allowance of 5 per cent of their annual gross receipts or output of ore deposits was unconstitutional, or, if that provision was inseparable from the rest of the act, the entire income-tax law, as applied to mining companies, was unconstitutional. Replying to the argument advanced by the mining company in that case, this court said that it rested upon the wholly fallacious assumption that, looked at from the point of view of substance, a tax on the product of a mine was necessarily a tax upon the property because of its ownership, unless adequate allowance be made for the exhaustion of the ore body resulting from the working of the mine; and, further—

We say wholly fallacious assumption because independently of the effect of the operation of the sixteenth amendment it was settled in Stratton's Independence *v.* Howbert (231 U. S., 399) that such a tax is not a tax upon property as such because of its ownership, but a true excise levied on the results of the business of carrying on mining operations.

We think it results from the principles announced in these decisions that in such cases as are now under consideration, the corporation being within the meaning of the act organized for profit and doing business, it is subject to the tax upon its income derived from the royalties under these leases.

This brings us to the fourth and last question in the case, as to whether allowance should be made for depreciation on account of the depletion of the property by removing the ores from the mines in question.

The contention of respondents in this behalf is that, if the court shall find that the moneys received by them under their mining contracts can be deemed gross income, in whole or in part, they are entitled to deduct therefrom, as a reasonable allowance for depreciation, the full amount of the money so received, for the reason that they represent a mere transmutation of capital assets, being, in legal effect, the selling price of their rights in the mineral deposits on or before January 1, 1909, and which, by virtue of the mining contracts then outstanding, had been previously sold for the exact amounts of such receipts.

The statement of facts in the case of Stratton's Independence, supra, as the court states on pages 418 and 419, developed from the certificate, was:

From that certificate it appears that the case was submitted to the trial court and a verdict directed upon an agreed statement of facts, and in that statement the gross proceeds of the sale of the ores during the year were diminished by the moneys expended in extracting, mining, and marketing the ores, and the precise difference was taken to be the value of the ores when in place in the mine.

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It is clear that a definition of the "value of the ore in place" has been intentionally adopted that excludes all allowance of profit upon the process of mining, and attributes the entire profit upon the mining operations to the mine itself. In short, the parties propose to estimate the depreciation of the mining property attributable to the extraction of ores according to principles that would be applicable if the ores had been removed by a trespasser.

It is true that in the case of Stratton's Independence, supra, the decision upon the question of depreciation was predicated upon the facts stated in the certificate presented to the court, and it was said, at page 422:

It would, therefore, be improper for us at this time to enter into the question whether the clause "a reasonable allowance for depreciation of property, if any," calls for an allowance on that account in making up the tax, where no depreciation is charged in practical bookkeeping; or the question whether depreciation, when allowable, may properly be based upon the depletion of the ore supply estimated otherwise than in the mode shown by the agreed statement of facts herein; for to do this would be to attribute a different meaning to the term "value of the ore in place" than the parties have put upon it, and to instruct the Circuit Court of Appeals respecting a question about which instruction has not been requested and concerning which it does not appear that any issue is depending before that court.

It therefore follows that we have the question of depreciation in this case presented under somewhat different circumstances than were outlined in the opinion in the case of Stratton's Independence.

The statute permits deduction of "all losses sustained within the year * * * including a reasonable allowance for depreciation of property." What was here meant by "depreciation of property"? We think Congress used the expression in its ordinary and usual sense as understood by business men. It is common knowledge that business concerns usually keep a depreciation account, in which is charged off the annual losses for wear and tear, and obsolescence of structures, machinery, and personalty in use in the business. We do not think Congress intended to cover the necessary depreciation of a mine by exhaustion of the ores in determining the income to be assessed under the statute by including such exhaustion within the allowance made for depreciation. It would be a strained use of the term depreciation to say that, where ore is taken from a mine in the operation of the property, depreciation, as generally understood in business circles, follows. True, the value of the mine is lessened from the partial exhaustion of the property, and owing to its peculiar character, can not be replaced. But in no accurate sense can such exhaustion of the body of the ore be deemed depreciation. It is equally true that there seems to be a hardship in taxing such receipts as income, without some deduction arising from the fact that the mining property is being continually reduced by the removal of the minerals. But such consideration will not justify this court in attributing to depreciation a sense which we do not believe Congress intended to give to it in the act of 1909.

It may be admitted that a fair argument arises from equitable considerations that, owing to the nature of mining property, an allowance in assessing taxes upon income should be made for the removal of the ore deposits from time to time. Congress recognized this fact in passing the income-tax section of the tariff act of 1913 (sec. 2, 38 Stat., 166, 167) when it permitted "a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made"; and in the income-tax law of September 8, 1916 (1915–1916 Stat., 756, 769), a reasonable allowance is made in the cases of mines for depletion thereof, "not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made." These provisions were not in the act of 1909, and, as we have said, we think that Congress, in that act, used the term "depreciation" in its ordinary and usual significance. We therefore reach the conclusion that no allowance can be made of the character contended for as an item of depreciation.

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No contention is made in the brief for an allowance because of sales of stumpage, lots, and lands belonging to the companies, as an exhaustion of the capital assets, and evidently the case was brought for the purpose of testing the right of the companies to deduct the royalties agreed to be paid to them upon the removal of the minerals from the lands from the sums for which they were severally assessed.

For the reasons stated, we think the Circuit Court of Appeals and the District Court erred in the judgments rendered, and the same will be reversed and the cases remanded to the District Court for further proceedings, if any are sought, upon claim of right to deduct the value of the lands, lots, and stumpage sold from the assessments made.

Judgments reversed.

Mr. Justice McReynolds took no part in the consideration and decision of these cases.

(T. D. 2437.)

Instructions to revenue officers in regard to shipment of alcoholic liquors, section 240 of the Criminal Code.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., January 19, 1917.

To internal-revenue agents and others concerned:

Reports now being received covering shipments into "dry" territory indicate that there is some misunderstanding relative to the duties of internal-revenue officers with respect to shipments in violation of section 240 of the Criminal Code.

The said section is not part of the United States internal-revenue laws, though it is closely akin in nature and purpose to section 3449, Revised Statutes, which is internal-revenue legislation.

The two sections should be compared by revenue officers in order that the scope of each and the difference between them may be clearly distinguished. It will be seen that the shipment of alcoholic liquors without any description whatever is not a violation of section 3449, it being necessary in order to come within the provisions of this section that alcoholic liquors shall be erroneously described. However, it is not necessary that the erroneous description shall be on the packages or containers; if it is in the bill of lading it is sufficient. Neither is it necessary that the shipment shall be to a point outside of the State, Territory, etc., where it originated.

On the other hand, section 240 of the Criminal Code is not violated unless the shipment is from one State, etc., to another, but it is not necessary that there shall be an erroneous description. A mere failure to show on the outside covering of a package the name of the consignee or the nature or quantity of the contents is sufficient, while an erroneous description in a bill of lading does not constitute a violation. Therefore a shipment of liquor as baggage, for instance, with no description whatever of the contents, is not in violation of section 3449, and, unless the shipment is to another State or

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Territory, etc., neither is there any violation of section 240 of the Criminal Code, although an interstate shipment of such character falls within the provisions of the latter section.

It will, of course, frequently happen that in seeking to discover violations of section 3449, Revised Statutes, some shipments will be found by revenue officers involving violations of both that section and section 240 of the Criminal Code, and others where section 240 of the Criminal Code only has been violated.

Where a shipment is discovered by nternal-revenue officers involving violations of both sections seizure should be made, etc., in the same manner as though section 3449, Revised Statutes, only was involved, but, of course, all the facts should be disclosed in any reports submitted either to this office, collectors of internal revenue, or United States attorneys.

However, when a case is discovered involving only section 240 of the Criminal Code, revenue officers should distinguish between their functions as such on the one hand and as private citizens on the other. (See in this connection T. D. 1610.) It should be realized that section 240 of the Criminal Code falls not within the jurisdiction of the Internal-Revenue Service, but within that of the Department of Justice and that it is the duty of the officers of such latter department, rather than that of revenue officers, to see that the said section is enforced. A revenue officer who attempts to perform the official functions of officers of the Department of Justice exceeds his authority.

It is not intended, of course, that revenue officers should ignore shipments involving violations of section 240 of the Criminal Code only, but they should act in regard thereto as citizens rather than in their capacity as revenue officers. It has been held that any person is authorized to make seizure where section 240 has been violated, and revenue officers should make detention accordingly. However, such cases should be immediately brought to the attention of the appropriate officers of the Department of Justice, who only have the right to officially adopt the seizures for the Government.

Baggage will very seldom come within the purview of the internal-revenue laws, and investigations in regard thereto should not be originated by revenue officers except where affirmative evidence is received that such laws have actually in some manner been violated. In other cases, parties furnishing information relative to baggage or the information itself should be referred to the officers of the Department of Justice for necessary action.

There is no legal duty of revenue officers to report cases involving violation of section 240 of the Criminal Code only to this office or to collectors of internal revenue. Certainly reports of seizure on Form 117 are quite out of order. If reports of such cases are made at all, they should only be for the purpose of furnishing general information

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showing the activities of field officers, etc. Such cases should not be reported in expectation of action by this office or collectors.

While it is by no means intended to discourage cooperation between officers of the various departments or to create a spirit of indifference among revenue officers with regard to matters pertaining to other departments of the Government, it is desired that internal-revenue officers will realize the necessity of the various laws and sections thereof being administered by the officers whose legal duty it is to do so, and that attempts by officers of one branch of the Government to perform the functions of others tend to produce friction and confusion.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2438.)

Assignment of storekeeper-gaugers to distilleries, general and special bonded warehouses, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 29, 1917.

To collectors of internal revenue and others concerned:

It has been brought to the attention of this office that a too fine division of duties imposed upon internal-revenue officers, such as storekeepers, storekeeper-gaugers, etc., assigned to distilleries has resulted in limiting the work performed by said officers and for that reason an excessive number is frequently assigned to duty, whereas with a notice of assignment of a broader character it would appear that a less number of officers in many cases could easily perform all necessary services under the direction of collectors.

With a view to correcting this condition the Secretary of the Treasury will be requested to change the designations of all officers now in commission as storekeepers or as gaugers to storekeeper-gaugers. When this action is taken and new commissions are issued, collectors will be notified and the officers will be required to furnish bonds as storekeeper-gaugers. In the event that any officers refuse to file new bonds report should be made to that effect. No officer who refuses to qualify by giving bond under the changed designation will be assigned to duty, and collectors will not recommend such assignments after opportunity has been afforded for such qualification.

After the receipt hereof collectors will not recommend for assignment storekeeper-gaugers appointed under civil-service rule 2, section 3, Schedule A, and hereafter no more storekeeper-gaugers will be appointed under said rule.

Hereafter officers will not be assigned in the separate capacity of either storekeeper or gauger, but each officer shall be assigned in the

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dual capacity of *storekeeper-gauger* only, and each officer will, under the direction of the collector, be required to perform the duties both of storekeeper and gauger. Where the quantity of spirits gauged by an officer averages more than 2,000 wine gallons a day during any month, the officer will be compensated the entire month at the appropriate rate as a gauger; otherwise he, in common with all other officers assigned, will be paid a per diem compensation as storekeeper-gauger, at the rates herein stated. Compensation by fees and a per diem compensation will not be allowed any officer under the same assignment the same month.

In recommending the compensation of such officers 6 gallons of ordinary commercial molasses will be regarded as the equivalent of 1 bushel of grain.

Where it is practicable by reason of contiguity for one storekeeper-gauger (not designated as a general storekeeper-gauger) to perform service at two distilleries the collector will so recommend. His compensation in such case will be based upon the larger surveyed capacity of either distillery in operation or the aggregate spirits in the two warehouses when both distilleries are under suspension.

Hereafter no particular kind of service, such as day, additional, night, or bottling, will be specified in the notice of assignment of storekeeper-gaugers assigned in such dual capacity, and collectors will therefore, under such assignments, require officers of this class to perform any and all kinds of service that may be necessary at the distillery.

Compensation by fees will be paid in the usual manner where storekeeper-gaugers are to receive compensation for services as gaugers and the vouchers will be rendered on Form 150 as heretofore.

One day's compensation will be allowed to storekeeper-gaugers for night services performed up to 11 o'clock Saturday evening and from 1 o'clock Monday morning.

The per diem rates of compensation of storekeeper-gaugers at distilleries in operation will be as follows:

Four dollars ($4) per day at distilleries having a surveyed capacity exceeding 60 bushels per day.

Three dollars and fifty cents ($3.50) per day at distilleries having a surveyed capacity exceeding 40 bushels and not exceeding 60 bushels per day.

Three dollars ($3) per day at distilleries having a surveyed capacity not exceeding 40 bushels per day.

The per diem rates of compensation of storekeeper-gaugers at distilleries under suspension will be as follows:

Four dollars ($4) per day when the quantity of spirits in warehouse exceeds 100,000 wine gallons, provided the daily survey capacity of the distillery exceeds 60 bushels.

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Three dollars ($3) per day when the quantity exceeds 5,000 wine gallons and does not exceed 100,000 wine gallons.

When there are less than 5,000 wine gallons of spirits in the warehouse and it is not practicable to place the same in the hands of a general storekeeper-gauger, the compensation of the storekeeper-gauger assigned will be at the rate of $3 per day for such days only as he may be required to visit the warehouse for the purpose of making withdrawals of spirits, or for other necessary purposes.

Storekeeper-gaugers will be assigned to general and special bonded warehouses as heretofore. At such warehouses, in which the quantity of spirits exceeds 25,000 wine gallons, the compensation of the storekeeper-gauger assigned to each will be at the rate of $4 per day; when the quantity of spirits exceeds 5,000 wine gallons and does not exceed 25,000 wine gallons the compensation will be at the rate of $3 per day; and when the quantity of spirits is less than 5,000 wine gallons the compensation will be at the rate of $3 per day for such days only as his services are actually required.

Storekeeper-gaugers will be assigned to central denaturing bonded warehouses and the compensation for such services will be at the rate of either $3 or $4 per day, in the discretion of the Commissioner of Internal Revenue.

Supervision over industrial distilleries may be by a deputy collector or a storekeeper-gauger, whichever may most economically and satisfactorily perform the service. The compensation of the storekeeper-gauger thus assigned will be either $3 or $4 per day, in the discretion of the Commissioner of Internal Revenue.

Vouchers on Form 107 and Form 242 will be prepared as heretofore.

Existing assignments will not be changed except as to *storekeepers* and as to *gaugers* who give new bonds as storekeeper-gaugers, and changes in compensation will be recommended where necessary. After receipt hereof, however, collectors will recommend all assignments in conformity herewith.

Recommendations for assignments will be made, as heretofore, on Form 241, all data required therein being furnished, including wine gallons in warehouse, with the exception only that collectors must not specify in the case of storekeeper-gaugers to be assigned in such dual capacity that the assignment is to be made in the separate capacity of storekeeper.

In the column provided on the Form 241 for indicating the character of service to be performed the collector will indicate as far as practicable the character of the work to be performed, but the duties of the officer under such assignment will not be confined to any particular kind of service stated therein.

The number of officers now employed at distillery warehouses is regarded as excessive and the cost consequently exorbitant, and it is expected that under the broader assignments provided herein col-

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lectors will endeavor to their utmost to reduce the number of officers at distilleries to the minimum, keeping the expenses for such services within reasonable bounds. Collectors will be held to a strict accountability in this respect, and field officers visiting distilleries will promptly report any excessive number of officers, with their recommendations in the premises.

A notation will be made on the records of this office of the number of storekeeper-gaugers under assignment to each distillery, and collectors will not increase the number thereof without first submitting the matter to this office for approval.

All services of storekeeper-gaugers in such dual capacity will be under the immediate supervision of the storekeeper-gauger in charge where more than one such officer is assigned and under the direction of the collector of the district. Collectors in arranging the duties of such officers will indicate to the officers which one is to be in charge.

Collectors will so arrange the services of storekeeper-gaugers as to avoid any partiality or favoritism, making such changes in the officers assigned to each distillery from time to time as will afford equal pecuniary opportunities, bearing constantly in mind the best interests of the Government and the qualifications of the officers for the services to be performed.

Hereafter in emergencies deputy collectors are authorized to gauge and withdraw spirits without receiving temporary appointments as storekeeper-gaugers when so directed by the Commissioner of Internal Revenue, but no additional compensation will be paid for such services.

The signatures of all officers assigned under the provisions of this Treasury decision on stamps, forms, and documents of whatsoever kind or nature will be as storekeeper-gaugers, except deputy collectors, who will sign as such.

These regulations are applicable to all officers, with the exception of storekeeper-gaugers assigned in the separate capacity of gaugers to bonded wineries to supervise the amelioration of wines, who will be assigned and compensated as provided by the act of September 8, 1916, and T. D. 2380 of October 10, 1916.

Officers commissioned as gaugers, but designated for special service under section 3157, as amended, will be required to give new bonds and qualify as storekeeper-gaugers under the provisions herein, but their designations will not be affected thereby, and they will be compensated as heretofore. The same rule will apply as to officers employed in gauging fruit brandy. Temporary storekeeper-gaugers may be appointed in appropriate cases as heretofore under the provisions of section 3155, Revised Statutes.

The provisions of article 203a, page 142, regulations No. 2, revised July 5, 1916, relative to the services of storekeeper-gaugers on Sundays and Sunday nights are still applicable.

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The instructions contained in mimeograph letter No. 1452 of December 22, 1916, reiterating the rule contained in paragraph 2, page 35, regulations No. 7, pertaining to the presence of storekeepers in open warehouse buildings, are hereby confirmed and made permanent in lieu of the instructions contained in T. D. 2405 of December 1, 1916, and on pages 81 and 82 of regulations No. 7 in regard thereto.

All regulations or portions of regulations inconsistent herewith are accordingly revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2439.)

Special taxes.

Post exchanges, if under Government control, not liable to special tax for operating billiard or pool tables or bowling alleys.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 27, 1917.

SIR: In reply to your verbal inquiry, you are advised, upon authority of Duggan *v.* United States (34 Ct. Cls., 458), that if the post exchanges the subject of your inquiry are under the complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys operated by them.

Respectfully,
DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2440.)

Remission of tax on brandy used in fortifying wines.

Provision made in section 402 of the act of September 8, 1916, for abatement or refund of tax assessed under act of October 22, 1914, on domestic wines is held to apply to the tax on brandy used in fortifying such wines.

TREASURY DEPARTMENT.
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 5, 1917.

To collectors of internal revenue:

Section 402, paragraph "a," Title IV, of the act of September 8, 1916, provides—

That on all unsold still wines in the actual possession of the producer at the time this title takes effect, upon which the tax imposed by the act approved October

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twenty-second, nineteen hundred and fourteen * * * has been assessed, the tax so assessed shall be abated, or, if paid, refunded under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

After a careful examination of the taxing provisions of the act of October 22, 1914, with the provisions of the act of September 8, 1916, above quoted, this office has reached the conclusion that the abatement and refunding provisions of the last-named act apply not to the tax collectible on the finished wines but to the tax "assessed" on the brandy used in the fortification of such wines.

So much of paragraph 23 of regulations No. 28, supplement No. 2, holding that "the abatement or refund of tax here referred to does not apply to the tax on the brandy used in fortifying such wine" is hereby revoked.

Proof as to the use of the brandy on which abatement or refund is claimed and the actual possession of the wines by the producer at the time the act of September 8, 1916, went into effect, must, however, be furnished with each claim filed, as in the cases provided for in the regulations here referred to.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2441.)

Corporation tax—Interest—Decision of court.

1. GROSS INCOME.

A corporation which did a brokerage business and bought securities for its customers, who paid only a part of the purchase price, paying intere on balances, the corporation also paying for the securities purchased only part of the purchase price and owing balances on which it paid interest, including in return of gross incom the difference between the interest received and the interest paid, made incorrect return. The int rest received by plaintiff from its customers should be included in gross income.

2. INTEREST.

nterest paid by plaintiff on said purchases is allowable as interest payable on its bonded or other indebtedness. In determining net income, interest can be deducted only to an amount not exceeding the paid-up capital stock outstanding at the close of the year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 8, 1917.

The appended decision of the United States District Court for the Eastern Division of the Eastern District of Missouri in the case of

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Altheimer & Rawlings Investment Co. *v.* Allen, collector, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

DISTRICT COURT OF THE UNITED STATES, EASTERN DIVISION OF THE EASTERN DISTRICT OF MISSOURI.

Altheimer & Rawlings Investment Co., a corporation, v. *E. B. Allen, United States collector of internal revenue for the first district of Missouri.*

DYER, Judge: The plaintiff's brief intelligently and fairly states the case and the respective contentions of the parties. That statement is as follows:

This case has been submitted on an agreed statement of facts, which admits all the allegations of fact contained in the petition. It appears therefrom that the action is one for the recovery of money paid upon assessemnts made by the United States Commissioner of Internal Revenue under the excise law of 1909, which provided for a tax of 1 per cent upon the net annual income of corporations. The petition contains three counts, the first being for the recovery of money paid on an assessment for the year 1909, the second being for the recovery of money paid on an assessment for the year 1910, and the third being for the recovery of money paid on an assessment for the year 1911.

The plaintiff made its return for each of these three years under that act, but the Commissioner of Internal Revenue held in each instance that the return did not show the proper net income, and accordingly made an assessment against the plaintiff for an increased amount for each of the three years. These three assessments were paid under protest, and the present action was brought after the preliminary proceedings required by the Federal statutes had been taken.

The matter out of which the present controversy arose is the same under all three counts, and is as follows:

The plaintiff did a brokerage business and in the course thereof bought securities for its customers and carried the same for the customers. On these purchases the customers paid plaintiff only a part of the purchase price, and consequently owed the plaintiff balances, on which they paid the plaintiff interest. The plaintiff in turn also paid on said purchases only a part of the purchase price, and accordingly owed balances on them on which it paid the interest; but the interest thus received by the plaintiff from its customers on said purchases exceeded the interest paid by the plaintiff on said purchases.

In making its returns under the Federal statute the plaintiff included as gross income the difference between the interest thus received by it from its customers on said purchases and the interest thus paid by it on said purchases; but the Commissioner of Internal Revenue held that the entire amount received should be included as gross income, and that the aggregate deduction for interest paid by the plaintiff whether for the interest on said purchases, or for interest paid otherwise, should be limited to $15,000. During each of the years involved the plaintiff paid for interest on other indebtedness than that for said purchases $15,000 or more. Accordingly, the commissioner in effect made no deduction whatsoever for the interest paid by plaintiff on said purchases.

The question now arising under each of the three counts of the petition is, whether the plaintiff was within its rights when it included, as gross income, in its return for each of the three years in question, only the difference between the amount received by it from its customers for interest on said purchases and the amount paid by it for interest on said purchases, or whether, as the Government claims, the plaintiff was entitled to deduct for all interest paid by it during each of these three years, that is, for interest on said purchases, as well as for other interest, only the sum of $15,000.

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The law under which these assessments were made provided for an excise tax against the corporation "equivalent to 1 per centum upon the entire *net income* over and above $5,000 received by it from all sources during such year." That law further provided that such *net income* should be ascertained by deducting "from the gross amount of the income of such corporation" received within the year from all sources, first, all ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and property; second, all losses actually sustained within the year, etc., and "third, interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation."

It is this third subdivision which underlies the claim of the Government, for the Government treats all the interest received by the plaintiff from its customers on said purchases as gross income, and treats all interest paid by the plaintiff on said purchases as interest paid "on its bonded or other indebtedness."

The law applicable to the case is to be found in the second paragraph of section 38 of the act of August 5, 1909 (sec. 36, Stat. L., 112). It is as follows:

Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company, received within the year from all sources, first, all of the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties, including all charges such as rentals or franchise payments, required to be made as a condition to the continued use or possession of property; * * *.

Third. Interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness, not exceeding the paid-up capital stock of such corporation, joint-stock company or association, or insurance company, outstanding at the close of the year. * * *

This statute defines "gross income" as "the gross amount of the income of such corporation * * * received within the year."

The Commissioner of Internal Revenue, in ascertaining and fixing the amount of the gross income of the plaintiff, refused to allow plaintiff for the interest paid by it on account of the purchases of bonds and stock and treated such payments as having been made "on its bonded or other indebtedness."

In the opinion of the court the action of the commissioner was in accordance with the law.

Judgment for the defendant will be entered on each count of the petition.

(T. D. 2442.)

Income tax.

Permanent improvements made under rental or lease contracts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 6, 1917.

To collectors of internal revenue:

Where, under the terms of a rental or lease contract, a tenant agrees to erect a building or to expend during the rental period a certain fixed sum in making improvements upon the freehold of another, it is held for income-tax purposes that the building or permanent improvement becomes a part of the realty unless otherwise agreed between the contracting parties, and, as such, shall be accounted for, without having normal tax withheld, as gain or profit

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to the lessor in the value of his realty at the termination of the contract, whether terminated by expiration of the lease or otherwise.

The gain or profit to the lessor at the termination of the lease, by expiration or otherwise, is held to be the difference between the cost of the building or improvement and a reasonable allowance for the exhaustion, wear, and tear of the property arising out of its use or employment in the business or trade during the period of its life under the lease, and no annual deduction for depreciation shall be allowed during the lease term.

As the use of the building or permanent improvement by the tenant during the term of the lease is a part of the consideration of the contract, the cost may be prorated by the tenant over the lease term and deducted at an annual rate as a part of "the necessary expenses actually paid in carrying on any business or trade," together with the cost of incidental repairs and maintenance.

The paragraph of T. D. 2135, entitled "Rental: Permanent improvements made under contract in addition to yearly," is hereby repealed.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2443.)

Claims for remission of taxes, etc.

Internal-revenue officers forbidden to furnish unauthorized statements or certificates in support of claims for remission of taxes or penalties under internal-revenue law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 9, 1917.

To collectors of internal revenue and other revenue officers:

The attention of this office has recently been called to voluntary written statements or certificates furnished by certain revenue officers in support of claims pending in this office for remission of taxes and penalties found to have been incurred by distillers or other taxpayers.

All such statements or certificates are not only wholly unauthorized, but in many instances are misleading and tend to defeat the Government's claim.

Revenue officers are therefore positively prohibited from furnishing statements in cases pending before this office unless called for by this office or required by regulations to be furnished in cases when originally presented to this office through the regular official channels.

In this connection attention is called to T. D. 1607 of March 31, 1910, forbidding revenue officers from preparing affidavits for claim-

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ants in like cases. Any violation of the instructions contained in that decision or herein contained will subject the offending officer to dismissal from the service, and, where the circumstances justify, to prosecution under section 3169 of the Revised Statutes.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2444.)

General storekeeper-gaugers.

Instructions relating to assignment of general storekeeper-gaugers to distillery, general, and special bonded warehouses.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 9, 1917.

To collectors of internal revenue and others:

A general storekeeper-gauger will be designated, assigned, and compensated, and will perform service as provided by regulations numbered 7 and 2 and T. D. 2408, of December 7, 1916, with the reservation that in the discretion of the collector of internal revenue or of the Commissioner, any distillery, general, or special bonded warehouse may be placed in charge of an officer thus designated whenever the withdrawal of spirits is inconsiderable, or whenever the collector or commissioner deem such course to be for the best interest of the Government.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2445.)

Income tax.

Extension of time in which to file returns of annual net income for the year 1916 by or in behalf of nonresident alien individuals and corporations and American citizens residing or traveling abroad.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 12, 1917.

To collectors of internal revenue:

Your attention is directed to the provisos contained in section 8 (b) and section 14 (c), act of September 8, 1916, which read, respectively:

That the Commissioner of Internal Revenue shall have authority to grant a reasonable extension of time, in meritorious cases, for filing returns of income by persons

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residing or traveling abroad who are required to make and file returns of income and who are unable to file said returns on or before March first of each year.

That the Commissioner of Internal Revenue shall have authority, in the case of either corporations or individuals, to grant a reasonable extension of time in meritorious cases, as he may deem proper.

Under these provisions of law, in view of the disturbed conditions abroad and the consequent interference with the usual channels of communication, an extension of time to include May 1, 1917, is granted for filing income-tax returns for the year 1916 by non-resident alien individuals and corporations or their proper representatives in the United States, and by or in behalf of American citizens residing or traveling abroad, in all cases where returns can not be filed on or before March 1, 1917.

In all such cases there is required to be attached to the return a statement of the reasons for the delay, and if an extension of time beyond May 1, 1917, shall be desired it is required that application shall be made in each particular case, with a statement of the reasons for the request.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2446.)

Income tax.

Individuals and corporations engaged in mining may compute depletion deductions from gross income on the basis of the fair market value of the mine content as of March 1, 1913, if the property was acquired prior to that date or on the basis of cost if acquired subsequent to that date.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., February 7, 1917.

To collectors of internal revenue:

Paragraphs "seventh" and "eighth" of section 5 (a) and paragraph "second" of section 12 (a) of Title I of the act of September 8, 1916, authorize individuals and corporations to deduct from gross income "a reasonable allowance for exhaustion, wear, and tear of property, and * * * (b) in the case of mines, a reasonable allowance for depletion thereof, not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made," provided that when the sum of the annual allowances for depletion equals the capital originally invested, or in case of purchase prior to March 1,

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1913, the fair market value as of that date of the mineral "in place," no further allowance on this account shall be made.

Ownership of the mine content at the time for which the computation is made is an essential prerequisite to an allowable deduction.

The paragraphs of the title above referred to authorize, in the case of mines, two classes of deductions to take care of the wasting of assets, namely, (*a*) depreciation, (*b*) depletion.

Depreciation comprehends loss due to exhaustion, wear, and tear of physical property, other than natural deposits, and the annual allowance contemplated by this title on this account will be ascertained by spreading ratably the cost of the property over the probable number of years constituting its life.

In determining the amount of depreciation deductible in the case of buildings, the cost or value of the land upon which the buildings are situated will be excluded and will not be considered a part of the original capital to be extinguished through depreciation deductions. The amount to be taken care of through depreciation deductions applicable to physical property other than natural deposits will always be the capital invested in it and not a value which may be arbitrarily fixed as of March 1, 1913, or as of any other date.

In the case of mines (other than oil and gas wells), if the property was acquired prior to March 1, 1913, the amount of invested capital which may be extinguished through annual depletion deductions from gross income will be the fair market value of the mine property as of March 1, 1913. The value contemplated herein as the basis for depletion deductions authorized by this title must not be based upon the assumed salable value of the output under current operative conditions, less cost of production, for the reason that the value under such conditions would comprehend the earning capacity of the property.

Neither must the value determined as of March 1, 1913, be speculative, but must be determined upon the basis of the salable value en bloc as of that date of the entire deposit of minerals contained in the property owned, exclusive of the improvements and development work; that is, the price at which the natural deposits or mineral property as an entirety in its then condition could have been disposed of for cash or its equivalent.

The value en bloc having been thus ascertained, an estimate of the number of units (tons, pounds, etc.) should be made. The en bloc value divided by the estimated number of units in the mine or mining property will determine the per unit value, which, multiplied by the number of units mined and sold during any one year, will determine the sum which will constitute an allowable deduction from the gross income of that year on account of depletion.

Deductions computed on a like basis may be made from year to year during the ownership under which the value was determined,

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until the aggregate en bloc value as of March 1, 1913, of the mine or mineral deposits shall have been extinguished, after which no further deduction on account of depletion with respect to this property will be allowed to the individual or corporation under whose ownership the en bloc value was determined.

The precise detailed manner in which the estimated fair market value of mineral deposits as of March 1, 1913, shall be made must naturally be determined by each individual or corporation interested, and who is the owner thereof, upon such basis as must not comprehend any operating profits, the estimate in all cases to be subject to the approval of the Commissioner of Internal Revenue.

Every individual or corporation claiming and making a deduction for depletion of natural deposits shall keep an accurate ledger account, in which shall be charged the fair market value as of March 1, 1913, or the cost, if the property was acquired subsequent to that date, of the mineral deposits involved. This account shall be credited with the amount of the depletion deduction claimed and allowed each year, to the end that when the credits to the account equal the debits no further deduction for depletion with respect to this property will be allowed. The value determined and set up as of March 1, 1913, or the cost of the property if acquired subsequent to that date will be the basis for determining the depletion deduction for all subsequent years during the ownership under which the value was fixed, and during such ownership there can be no revaluation for the purpose of this deduction if it should be found that the estimated quantity of the mineral deposit was understated at the time the value was fixed or at the time the property was acquired.

In cases wherein the quantity of the mineral deposit in the mine prior to March 1, 1913, can not be estimated with any degree of accuracy, it will be necessary, if depletion deductions are to be availed of, for the individual or corporation owning the deposits, with the best information available, to arrive at the fair market value of the property as of March 1, 1913, that is, its fair cash value en bloc if such value is believed to be other than its original cost, which value, during the period of the ownership under which it was determined, shall be final, and shall be charged to the property account as hereinbefore indicated, and then, on the basis of the most probable number of units in the property, the per unit value shall be determined as the basis for computing annual depletion allowances, this method and allowances to be continued until, but not beyond, the time when the value as of March 1, 1913, shall have been extinguished.

The original cost of the mineral deposit may be taken as the basis for computing annual depletion deductions if the fair market value as of March 1, 1913, as hereinbefore required, can not be ascertained

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otherwise, allowance being made for minerals which may have been removed prior to that date.

In cases wherein a mineral property was acquired subsequent to March 1, 1913, the same rule for computing the annual depletion deduction will apply, except that in such case the basis of the computation will be the actual cost rather than the value as of March 1, 1913.

The foregoing rules apply to owners in fee of mines and mining properties, and do not contemplate that an individual or corporation operating a mine under lease on a royalty basis shall be entitled to any deduction for depletion. If, however, the lessee, in addition to royalties, paid or pays a stipulated sum for the right to explore, develop, and operate a mine, the amount so paid may be ratably distributed over the life of the lease or the probable life of the mine under ordinary operating conditions, and the lessee may deduct annually as a rental payment an aliquot part of the amount of the bonus so paid until such amount has been extinguished.

To the return made pursuant to the above rule there should be attached a statement setting out (1) whether the operator is a fee owner or lessee; (2) in the case of a fee owner, (*a*) the fair market value of the mineral deposits as of March 1, 1913, if the property was acquired prior to that date, (*b*) the cost of the mineral property if acquired subsequent to that date; (3) the method by which the value as of March 1, 1913, was determined in case the property was acquired prior to that date; (4) the estimated quantity in units in the mine as of March 1, 1913, or at the date of purchase if acquired subsequent to that date; (5) the number of units removed and sold during the year for which the return was made; and (6) any other data which would be helpful in determining the reasonableness of the depletion deduction claimed in the return.

In the case of a lessee, the statement should show (*a*) the amount of the bonus or other payment made for the right to operate the mine; (*b*) the period covered by the lease.

W. H. Osborn,
Commissioner of Internal Revenue

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2447.)

Income tax.

Individuals and corporations from whose property oil or gas is produced may deduct from gross income on account of depletion such a percentage of the fair market value as of March 1, 1913, of the oil or gas properties, if acquired prior to that

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date, or of the cost of such properties if acquired subsequent to that date, as the reduction in flow and production of the year for which the return is made is a percentage of the flow and production of the previous year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 8, 1917.

To collectors of internal revenue:

Section 5, deduction "eighth," and section 12, deduction "second," of Title I, act of September 8, 1916, authorize individuals and corporations owning and operating gas or oil producing properties to make deductions from gross income on account of depletion as follows:

In the case of oil and gas wells, a reasonable allowance for actual reduction in flow and production, to be ascertained not by the flush flow but by the settled production or regular flow, provided that when the allowance authorized shall equal the capital originally invested, or in case of purchase made prior to March 1, 1913, the fair market value as of that date, no further allowance shall be made.

The purpose of this provision is to afford a means whereby the individual or corporation owning oil or gas producing properties may, during the period of operation, deduct from gross income the cost of, or capital actually invested in, the natural deposits if the investment was made subsequent to March 1, 1913, or the fair market value as of March 1, 1913, if purchased prior to that date, the measure of the deduction being the reduction in the flow and production.

The annual deduction authorized by the above-quoted provision must be reasonable and not in excess of such a percentage of the cost or value, as the case may be and as herein defined, of the oil or gas producing properties as is indicated by the reduction in the original flow or settled production of one year as compared with that of the preceding year.

For the purpose of this deduction note may be taken of the reduction in flow and production of such individual wells as were producing oil or gas during or at some time within the year of groups of wells or of all wells in the field or territory embraced in the same ownership. If tested by the aggregate flow of all of the wells in the field or territory owned by an individual or corporation and new wells shall have been developed during the year, it is possible that at the end of the year there will have been no reduction in flow and production, in which case, under the specific provision of the law hereinbefore quoted and under which the depletion deduction is measured by the reduction in flow and production, there can be no deduction for depletion.

Hence, in the case of a field or territory in course of development or in which new wells are being drilled, if the depletion deduction is to be availed of in the returns of annual net income each individual

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well or possibly each group of wells in operation at the beginning of, or brought in, during the year, if the flow and production of the group of wells is so assembled as to be tested must be tested at the end of the year in order that the decline in the flow and production may be determined.

New wells or new groups of wells brought in during the year may be tested as soon as they have reached the stage of settled production or regular flow, and then again at the end of the year. The decline in flow and production, if any, as indicated by these tests will be reduced to a percentage basis and a like percentage of the capital invested in the oil or gas property (exclusive of machinery, equipment, etc.) will constitute an allowable deduction from the gross income of the year on account of depletion. Thus, if the decline in the flow and production during the year of, say, 10 wells, costing $100,000, has been 5 per cent, as compared with the production and flow as indicated by a test made at the beginning of the period, then 5 per cent of $100,000, or $5,000, will, for the year for which the computation is made, constitute an allowable depletion deduction in favor of the individual or corporation owning and operating the property.

If the wells are not so situated that their flow and production may be assembled in order to test and ascertain the reduction in the output as a basis for computing depletion, it will be necessary for the corporation or individual owning the property and claiming a depletion deduction to take an accurate gauge of the production and flow of each well at a certain same period of each year, and by comparing this gauge with that of the previous year determine the percentage by which the production and flow has been reduced. This having been done as to all of the wells in operation, an average percentage rate of reduction in flow and production will be ascertained and this rate will be applied to the capital invested; that is, the value of the oil or gas property as of March 1, 1913, or the cost of the same if acquired subsequent to that date, for the purpose of determining the amount which may be allowably deducted from gross income by such owning individual or corporation on account of depletion.

In case of a field or territory fully developed and in which no new wells are being drilled, a comparison of the quantity of oil or gas produced during the year for which the computation is made with the quantity produced during the last preceding year, will disclose the reduction, and the percentage thus indicated of the reduction in flow and production of such field will be the measure of the depletion deduction to be taken by the owner with respect to the capital invested in such field.

Notwithstanding the fact that the drilling of new wells may offset the reduction in the production and flow of the older wells in the field

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not fully developed, the provision of the law hereinbefore quoted does not authorize, and this office can not permit, a depletion deduction to be taken so long as the flow and production of the unit, be it a well or group of wells or the entire territory, is as great during the year for which the return is made as it was for the year immediately preceding.

Illustrating in a general way the above rule as applied to a field or territory the case may be taken of an oil property in which the capital invested, either actual cost or fair market value, as the case may be, is $500,000 and the production during the year for which the return is made was 47,500 barrels, and for the year immediately preceding 50,000 barrels. This would indicate a reduction in production of 2,500 barrels, or a decline of 5 per cent. Applying this rate to the capital ($500,000) the individual or corporation owning the property would be entitled to deduct from gross income as depletion for the year for which the return is made the sum of $25,000, that is, 5 per cent of the invested capital.

The depletion deduction in all cases until the capital invested is extinguished will be such a percentage of the unextinguished capital as the reduction in flow or production of one year is a percentage of the flow or production of the previous year.

The estimate of the fair market value of gas and oil properties as of March 1, 1913, on which depletion deductions are based shall be the price at which the property as an entirety might have been sold for cash or its equivalent as of that date. The value hereinbefore contemplated must naturally be determined by each individual or corporation interested and who is the owner of the property upon such basis as will not comprehend any operating profits, the estimated value in all cases to be subject to the approval of the Commissioner of Internal Revenue.

Every individual or corporation entitled to a deduction for depletion on account of reduction in flow or production of oil or gas shall keep an accurate ledger account, in which shall be charged the fair market value as of March 1, 1913, or the cost, if the property was acquired subsequent to that date, of the property whose value declines with the removal of the natural deposits. This account shall be credited with the amount of the depletion deduction claimed and allowed each year, to the end that when the credits to the account equal the debits, no further deduction for depletion with respect to this property and the capital invested in it will be allowed.

The value determined and set up as of March 1, 1913, or the cost of the property if acquired subsequent to that date, will be the basis for determining the depletion deduction for all subsequent years during the ownership under which the value was fixed, and during such ownership there can be no revaluation for the purpose of this deduction if it should be found that the estimated quantity of oil or

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gas contained in the property was understated at the time the value was fixed or at the time the property was acquired.

The provision of the law authorizing the depletion deduction, designed as it is to provide a means whereby the invested capital of an individual or corporation may not be subject to the tax imposed by this title, does not apply to individuals or corporations who are operating oil or gas properties under lease, since in those cases the operator has no capital invested in such properties. By capital invested, as herein used, is meant the fair market value of the properties as of March 1, 1913, if acquired prior to that date, or their actual cost if acquired subsequent to that date, as it relates to the owner in fee of the properties.

Lessees will, however, be permitted to deduct from gross income each year a reasonable allowance for depreciation, which depreciation applies to the physical property, including rigs, tools, machinery of all kinds, pipes, casing, and other equipment necessary to the operation of the wells or field. If lessees, in order to secure the right to enter upon, explore, develop, or operate gas or oil properties, paid or shall pay a bonus in addition to royalties the amount of such bonus so paid may be ratably distributed over the life of the lease or over the productive life of the property, and the lessee may deduct annually as a rental payment an aliquot part of the amount of the bonus so paid until such amount has been extinguished.

The incidental expenses of drilling wells, that is, such expenses as are paid for wages, fuel, repairs, etc., which do not necessarily enter into and form a part of the capital invested or property account, may, at the option of the individual or corporation owning and operating the property, be charged to property account subject to depreciation or be deducted from gross income as an operating expense. If, in exercising the option, the operating individual or company charges the expense of drilling wells to property account, the same may be taken into account in determining a reasonable allowance for depreciation during each year until the property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be permitted. The cost of drilling dry or nonproductive wells may be deducted from gross income as a loss.

To each return made by an individual or corporation owning and operating oil or gas properties there should be attached a statement showing (1) (*a*) the fair market value of the property (exclusive of machinery, equipment, etc.) as of March 1, 1913, if acquired prior to that date, or (*b*) the actual cost of the property if acquired subsequent to that date; (2) how the fair market value of the property as of March 1, 1913, was ascertained; (3) the quantity of oil or gas produced during the year for which the return was made; (4) the

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quantity produced during the year immediately preceding; (5) how the depletion deduction claimed in the return was computed, whether upon the decline in flow and production of individual wells, groups of wells, or the entire field; and (6) any other data which would be helpful in determining the reasonableness of the depletion deduction claimed in the return.

If the operator is a lessee that fact should be stated and an explanation given as to the basis and property upon which any depreciation deduction is claimed, it being understood, as hereinbefore indicated, that depreciation relates to the loss due to the use, wear, and tear of physical property, and that the lessee is not entitled to any deduction for the depletion or exhaustion of the oil or gas deposits, but may deduct annually as a rental payment an aliquot part of any bonus paid for the right to enter upon, explore, develop, and operate oil or gas territory, as well as the royalty payments made to the lessor for the oil or gas removed from such property, provided the entire proceeds from the oil or gas produced during the year are returned in the gross income of the operator.

The above rule for computing allowable depletion deductions being set out in the law, no deduction on this account will be allowed if computed upon any basis other than that authorized by the law and further amplified in this decision.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2448.)

Shows and exhibitions.

Construction of the exemption from special tax as shows and exhibitions of chautauquas, lecture lyceums, etc.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., February 14, 1917.

To collectors of internal revenue, internal-revenue agents, and others concerned:

With reference to the opinion of the court in the case of the Redpath Lyceum Bureau *v.* Pickering, collector, decided by the District Court of the United States for the Southern District of Illinois, involving the construction of the proviso exempting from the tax imposed by the eighth subdivision of section 3 of the act of October 22, 1914, which proviso reads as follows:

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Provided further, That this paragraph shall not apply to chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations—

in order that the same may be properly understood it is stated that it appears that this case was based upon assessments made on account of about 20 entertainments of miscellaneous character, not lectures, given in the eighth district of Illinois; that it was urged that the Redpath Lyceum Bureau belongs to a class exempted by the proviso; that exemption from tax was further claimed on the ground that the entertainments were given under the auspices of religious organizations; that such claim was based upon an agreement whereby certain churches received a commission for the sale of tickets, such arrangement constituting practically the only connection of the churches with the entertainments; that tax as proprietor of one show or exhibition had been paid to the collector of internal revenue for the first district of Illinois; and that it was contended that payment of such tax covered all exhibitions given in the State of Illinois.

The court held as follows:

First. The Redpath company is not a lecture lyceum within the meaning of the act, and is not exempt.

Second. The entertainments given at Springfield were not under the auspices of the Springfield churches.

Third. The tax stamps issued to the Redpath Lyceum Bureau by the collector at Chicago covered only entertainments given at 57 East Jackson Boulevard, Chicago.

The companies of artists, performers, actors, orchestras, quartets, illustrators, imitators, magicians, dramatic or operatic companies, or other entertainers appearing on Redpath programs at other places in the State were required to pay the legal tax once each for the State of Illinois.

Judgment for defendant.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2449.)

Estate tax.

The value of United States bonds can not be excluded from the gross or net estate in determining estate tax due.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 13, 1917.

The following opinion of the Solicitor of Internal Revenue, rendered February 13, 1917, is published for the information of all concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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SIR: Answering the question presented by ——— under date of the 10th instant, relative to the liability of estates to taxation under the recent Féderal estate tax, it is manifest from the following decisions of the United States Supreme Court that United States Government bonds must be added to the value of estates for the purpose of taxation under said act.

The United States Supreme Court in Plummer *v.* Coler (178 U. S., 134), considering the question whether, under the inheritance-tax laws of a State, a tax might be validly imposed upon a legacy consisting of United States bonds issued under a statute declaring them exempt from State taxation in any form, said:

> We think the conclusion, fairly to be drawn from the State and Federal cases, is, that the right to take property by will or descent is derived from and regulated by municipal law; that, in assessing a tax upon such right or privilege, the State may lawfully measure or fix the amount of the tax by referring to the value of the property passing; and that the incidental fact that such property is composed wholly or in part of Federal securities does not invalidate the tax or the law under which it is imposed.

And dealing directly with the power of the Federal Government under the inheritance-tax act of 1898 to impose legacy taxes upon the transmission of an estate consisting of "free-tax" Government bonds, the court, in Murdock *v.* Ward (178 U. S., 147), referring to the discussion and decision in the Plummer case, held:

> If a State inheritance law can validly impose a tax measured by the amount or value of the legacy, even if that amount includes United States bonds, the reasoning that justifies such a conclusion must, when applied to the case of a Federal inheritance law taxing the very same legacy, bring us to the same conclusion. We must, therefore, hold that if, as held in Knowlton *v.* Moore, the tax imposed under the act of June 13, 1898, is not invalid as a direct, unapportioned tax, nor for want of uniformity, nor as an infringement upon the laws of the States regulating wills and descents, then the tax upon legacies or bequests, descendible under and regulated by State laws, is valid, even if such legacies incidentally are composed of Federal bonds.

And, further, in Sherman *v.* United States (178 U. S., 151), the court said:

> The proposition that bonds of the United States and the income therefrom are not lawfully taxable under an inheritance tax law of the United States, because exempted by contract from such tax, has just been decided *not* to be *well founded.*

This is clearly conclusive of the whole question.

(T. D. 2450.)

Estate tax.

Method of determining share in community property or property owned jointly or in entirety. To be returned as a portion of the gross estate of a decedent tenant.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 14, 1917.

SIR: Receipt is acknowledged of your letter of the 6th instant, calling attention to the report of the revenue agent, dated the 3d instant, with regard to the liability to estate tax of the estate of ———.

You state that, under the Texas law, all property earned by a husband or wife during the period of their marriage is community property and owned jointly. The death of either does not affect the interest owned by the survivor; that is, this interest does not pass

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by inheritance. The public records in such cases may, however, be misleading because any conveyance, legally made to both, is apt to be recorded in the name of one, usually the husband. As a matter of fact, however, there is a legal presumption that the whole property conveyed to either is community, without reference to the manner of its acquisition. However, if property were purchased by the separate means or property of either, or were received by either as an inheritance, such property would not be community but would be individual property, without reference to the manner in which the deed of conveyance is stated. Notwithstanding this, however, under the presumption of the Texas law, it would have to be considered community property until facts otherwise were developed.

In the case of the ——— estate the revenue agent reported as belonging to the estate of the deceased husband the entire property, which the public records showed as in his name. The widow, who is also administratrix, stated to the agent that the entire property so treated by the agent as the gross estate of the deceased husband was, in fact, community property, but up to this time she has submitted no evidence substantiating this contention. While for the purposes of local administration a presumption would be created by the local law in favor of the widow's contention in this case, such a presumption does not rest in her favor so far as any responsibility or duty that may be imposed upon her by Federal law is concerned. No State statute of this character has any modifying effect whatever upon the explicit terms of a Federal taxing act. The act of Congress of September 8, 1916, creates its own presumptions and defines explicitly the terms under which exemption from tax may be claimed.

You will note that, under section 202, paragraph C, there is required to be included in the gross estate of a decedent all the interest held jointly or as tenants in the entirety by the decedent and another person, "except such part thereof as may be shown to have *originally* belonged to such other person and never to have belonged to the decedent." Under this paragraph of the taxing act, wherever the public records show property in the name of the decedent, the presumption is that it was the sole property of the decedent, and the burden of proving that another person owned, prior to the decedent's death, any interest therein is not upon the Government but is upon the estate.

You will note the extremely limiting terms of the paragraph quoted above, and that it must be shown that any part of the property to be excluded from the gross estate must have actually belonged in the first instance to a person other than the decedent and that it has never been owned by the decedent. If, under the Texas law, property conveyed to a husband or wife during their marriage is taken by each in entirety and in such a manner that it could not be contended that any specific part belonged to either, but that each was the owner of

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all, and upon the death of either no new interest or title vested in the survivor, as is the case in some States, the Government, under a strict and technical interpretation of paragraph C of section 202, would perhaps be justified in demanding that the whole of the property thus owned be included as a portion of the gross estate of the decedent. This, however, does not seem to have been the intent of Congress, and it has heretofore been ruled in a similar case that one-half of the property thus jointly owned should be returned as a portion of the gross estate of the decedent husband or wife, as the case might be.

In the case of the ——— estate, therefore, you should require of the administratrix in due time the return on Form 706, and therewith may be submitted any evidence available to the administratrix to establish that any part of the property included in the gross estate was actually community property of the decedent and his wife and that, therefore, but one-half thereof is to be treated as the estate of the decedent.

Respectfully,

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2451.)

Income tax—Insurance companies—Decision of court.

1. Income Means Receipts in Cash.
   Income means what has come in or receipts.
2. Receipt by Agent is Receipt by Principal.
   Company obligated to report in full the total sums received in cash, both amounts received at the home office and those paid to its lawful agencies during the calendar year.
3. Net Addition to Reserve Funds.
   Only the net addition to reserve funds required by State statutes is deductible from gross income. No State law has been pointed out which requires the maintenance of reserve fund to secure payments of taxes, salaries, and brokerage and agents' commissions.
4. Decreases in Reserve Funds.
   Reserve funds when released are in their very essence income.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., February 20, 1917.

The appended decision of the United States Court of Claims in the case of the Maryland Casualty Co. *v.* United States is published for the information of internal-revenue officers and others concerned.

W. H. Osborn,
Commissioner of Internal Revenue.

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COURT OF CLAIMS OF THE UNITED STATES. No. 33191.

Maryland Casualty Co. v. *United States.*

[Decided February 12, 1917.]

BOOTH, Judge, delivered the opinion of the court:

The petition in this case alleges certain facts upon which the claimant company rest a contention for the refund of certain excise and income taxes said to have been illegally collected under section 38 of the act of August 5, 1909 (36 Stat. L., 112), and section 2, division G, of the act of October 3, 1913 (38 Stat. L., 172). The amount claimed is $16,306.16.

Section 38 of the act of August 5, 1909, provides as follows:

SEC. 38. That every corporation, joint-stock company or association, organized for profit and having a capital stock represented by shares, and every insurance company now or hereafter organized under the laws of the United States or of any State or Territory of the United States or under the acts of Congress applicable to Alaska or the District of Columbia, or now or hereafter organized under the laws of any foreign country and engaged in business in any State or Territory of the United States or in Alaska or in the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing of business by such corporation, joint-stock company or association, or insurance company, equivalent to one per centum upon the entire net income over and above five thousand dollars received by it from all sources during such year, exclusive of amounts received by it as dividends upon stock of other corporations, joint-stock company or association, or insurance companies, subject to the tax hereby imposed.

Division G of the act of October 3, 1913, provides as follows:

(c) The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first: *Provided, however,* That for the year ending December thirty-one, nineteen hundred and thirteen, said tax shall be imposed upon its entire net income accrued within that portion of said year from March first to December thirty-first, both dates inclusive, to be ascertained by taking five-sixths of its entire net income for said calendar year.

In pursuance of the foregoing enactments the claimant, a casualty insurance company organized and incorporated under the laws of the State of Maryland, made its return to the Commissioner of Internal Revenue for the years 1909 to 1912, inclusive. The commissioner declined to accede in all respects to the returns as made, insisting upon various amendments of the same, which, as he claimed, more clearly reflected the net income of the corporation for taxable purposes. The claimant company paid the additional taxes assessed under the amended returns under protest, and herein seeks to establish a misconstruction of the law under which the same were assessed and collected.

Without discussing the details of the various returns as they appear in the findings, the case may be disposed of as to the legal propositions involved by taking them up in the order adopted by the parties in the case in their briefs.

The original returns made by the company for each year covered by the petition in this case, except for the year 1913, was made upon a basis of cash received as distinguished from the total amount of business done on paper, i. e., a written basis. The commissioner amended each return so made to comply with a return made by the company to the State insurance department of the State of Maryland, wherein it listed its total business transactions, both cash received in premiums and premiums due on insurance written but not received at the home office of the company during the calendar year. The claimant company now contends that its original returns made upon a cash basis conform to the excise law, and upon them alone was the tax to be assessed and collected.

The language of the taxing act clearly imports an intent to tax the entire net income, with certain deductions, received by the company from all sources during the calendar year. While the tax itself is an excise tax, imposed upon the privilege of doing business in a corporate capacity, the amount of the tax is measured by the

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net income received from all sources during the time stated. Flint *v.* Stone Tracy Co. (220 U. S., 108).

The word "income," as used in revenue legislation, has a settled legal meaning. The courts have uniformly construed it to include only the receipt of actual cash as opposed to contemplated revenue due but unpaid, unless a contrary purpose is manifest from the language of the statute. What is taxed by the terms of the foregoing statutes is "net income received," not income accruing or accrued which has not been received and portions of which may never be received. While the phrases "income received" and "income accrued" are frequently used in the same statute, the courts have not departed, unless it expressly appears otherwise, from a construction of the law in accord with an intention to reach the actual and not the potential income of the corporation. In the income-taxing act of 1913 (38 Stat. L., 172) the two preceding phrases are employed; in fact, the act of 1913, in speaking of income as applied to insurance companies and domestic corporations, uses the above phrases as follows: "Income arising or accruing," "income received," and "income accrued." Doubtless it was the intention of Congress in legislation of this character to employ terms of sufficient comprehension to reach the actual income of the corporation by foreclosing any possible avenue of escape, but it can hardly be said that in so doing an intention prevailed to tax that which did not actually exist, except on paper, as income accrued during the taxing period. One can not be said to receive an income of defined proportions until he balances receipts and deductions at the end of a stated period and ascertains not what is due but what has been actually received. The assets and liabilities of a corporation may be measured by a different rule of accounting, but income as defined by the courts means, as said in United States *v.* Schillinger (14 Blatchf., 71), "in the absence of any special law to the contrary, income must be taken to mean money, and not the expectation of receiving it or the right to receive it at a future time."

In Mutual Benefit Life Insurance Co. *v.* Herold (198 Fed., 199) Judge Cross, in the United States District Court for New Jersey, had before him an excise case in which this identical question was directly involved. After reviewing at length the general intendment of taxing statutes, a part of his discussion with reference to this question is in the following language:

That law provides that the tax is to be—

"One per centum upon the entire net income over and above five thousand dollars *received* by it from all sources during such year, exclusive of amount *received* by it as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax hereby imposed."

This language seems clearly to indicate that the net income, which is the measure of taxation, means what has actually been received, and not that which, although due has not been received, but its payment for some reason deferred or postponed. Furthermore, an examination of the act shows that the net income is to be ascertained by deducting from the gross income—

(1) "All the ordinary and necessary expenses *actually paid within the year* out of income in the maintenance and operation of its business and properties."

(2) "All losses actually *sustained within the year*," etc.; "also the sums other *than dividends paid within the year* on policy and annuity contracts, and the net addition, if any, required by law to be made within the year to reserve funds."

(3) "Interest *actually paid within the year* on its bonded and other indebtedness," etc., "and in the case of a bank, banking association, or trust company, *all interest actually paid by it within the year on deposit.*"

(4) "Also all sums *paid by it within the year* for taxes," etc.

(5) "All amounts *received by it within the year* as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax hereby imposed."

Since, then, the language of the act is explicit in permitting only such deductions from the gross income as were actually paid during the current year, it would be strange indeed if on the opposite side of the account the company were charged with what it had not received during the current year. No reason appears or has been suggested for so radical and unwarranted a departure. Furthermore, the word "income" means, as already shown, that which has come in, and not that which might

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have come in, but did not. If expenditures means what has been paid out, or outgoes, then income means what has come in, or receipts. The matter, however, does not rest entirely upon arbitrary statement, since there are a number of cases which throw light upon the question.

It is true, as observed by the defendants, that the above case concerned a life and not a casualty insurance company, and that the decision rested to some extent upon a belief that the State insurance department required an annual report upon a cash basis. Nevertheless the distinction is not of such importance as to destroy the reasoning. The ascertainment of the taxable income is obviously not affected by the difference in the character of the business conducted, nor by what is left to regulation by the laws of the different States. The law now under consideration imposes a tax by express provisions and unless "income received" can be construed to include prospective gains, sometimes secured, sometimes unsecured, it must be limited, as its terms imply, to what is certain, easily known, and easily computed.

The Herold case, supra, came before the Circuit Court of Appeals (201 Fed., 918). The question referred to above was not discussed by the appellate court; the opinion considers but a single question other than the above. The decision of the district court was affirmed, however, the parties seemingly being content with the decision with respect to this particular issue, as it was not raised upon appeal. The rule was followed in Insurance Co. of North America *v.* McCoach (218 Fed., 905); Connecticut Mutual Life Insurance Co. *v.* Eaton (218 Fed., 188 and 223). The defendants have cited no decisions to the contrary and, doubtless, it can not be done.

The record reveals a state of facts apropos of this particular contention which conclusively shows that the claimant company in its original return did not report its actual cash income for the calendar year 1909. A system of accounting adopted by the company allowed a period of two months to local agencies in which to report their cash premium receipts to the home office. Such a system, in view of the rules and regulations of the Commissioner of Internal Revenue, does not "clearly reflect" the company's income, for it is admitted that some and perhaps the greater portion of premiums listed in the original return as due but unpaid have been paid to the company's agents. A payment to the agent is payment to the principal, and the company under the rules of the commissioner has until March 1 following the close of the calendar year to make its return. While under the provisions of the act of September 8, 1916 (39 Stat. L., 771), a corporation's system of bookkeeping is not to be disturbed, still it is apparent from the language of the section so providing that the system adopted must be such as to "clearly reflect its income." The company in the present case is obligated under the law to report in full the total sums received in cash, both the amounts received at the home office and those paid to its lawful agencies during the calendar year. Any other course, no matter how convenient, would fail in firmly establishing the dividing line between sums due and unpaid and actual income received during the year. It is somewhat inconsistent to claim a right under the cash basis of returns when it is apparent from the return itself that it embodies both the cash and written bases. The two systems can not overlap. The accounting must distinctly disclose the gross income from all sources.

The commissioner in his final assessment collected the excise tax for 1909 on a basis of $643,162.08 premiums written but not reported to the company paid in 1909. In reaching this conclusion he excepted as part of the cash income of the company the sum of $584,164.18 premiums written in 1908 but paid to the company in 1909, as found in the company's original return, imposing by his amended return made to the company an additional tax based upon the difference between the two sums mentioned above, i. e., $58,997.90. In this respect we think he was in error. The return of the company should have disclosed all cash payments of premiums made during the calendar year.

The next contention is more perplexing and necessarily involves the application by the commissioner of a strict rule of construction of the taxing law. A deduction is allowed insurance companies of "the net addition, if any, required by law to be made

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within the year to reserve funds." This language standing alone is apparently free from ambiguity. The intent of the law is not difficult to perceive. Its practical administration, however, becomes difficult because of a diversity of opinion as to just what sums are to be included as coming under the law within the reserve funds. Claimant company contends that under the requirement of the laws of the various States it is required to maintain a separate reserve fund of sufficient amount to protect the policyholder, creditor, and claimant; in other words, the reserve fund must be coextensive with the company's liabilities. That the company did not always entertain this conception of its rights is manifest from its returns, for during the early years of the law's operation it did not include items it subsequently claimed as coming within this category. The department in administering the law adopted as a uniform basis for reserve deduction "the reserve of the State in which the reserve requirements are the greatest." The reserve required by the various States of the Union is, of course, a statutory provision setting forth the conditions upon which foreign corporations and insurance companies may transact business within the State. These statutes, like laws of similar character, provide a separate department with a commissioner in charge to administer the law. The commissioner in so doing promulgates rules and regulations which in his view meet the requirements of the statute, but vary in the different States as to the items of amounts which go to make up the reserve funds. Legal reserve funds are those sums required by State laws to be maintained by insurance companies to secure its liabilities upon policies written. They are accumulated out of the income of the company and are in reality simply its invested assets, approved securities sufficient in amount to meet the liabilities of the company. An example is found in the unearned premium reserve; the amount required under this item does not cover the full liability of the company upon insurance written up to July 1. It simply requires a reservation of a sufficient sum to pay the premiums of reinsurance upon the enforceable policies then extant in the event the company should go out of business or to return the unearned portion of the premiums paid in the event of bankruptcy, cancellation of policy, etc. This reserve, as we understand the situation, is not intended to cover the company's liability with respect to the insurance written, but is a fund providing against loss in case of the happening of a certain contingency. While of course it naturally affects the solvency of the company, for if for any reason it is incapable of maintaining the same its business may be foreclosed, yet it is not in its essential characteristics a provision against insolvency. It in nowise secures other creditors or claimants of the company. The computation of the amount is ascertained upon a hypothetical basis, and the rules governing it are arbitrary. The laws of the States, probably without exception, require the maintenance of this reserve and insurance companies for years have recognized the wisdom of its existence.

Loss and unpaid liability claims afford an exact basis for computation, and the reserves maintained cover the liability therefor. The State statutes most generally require the maintenance of a reserve to cover each class of this particular kind of insurance, but it is difficult to perceive upon what theory, under the above provision of the taxing law, a corporation or insurance company can expand this privileged deduction to include all the liabilities of the same. Unpaid taxes, unpaid salaries, brokerage, and agents' commissions are current expenses; they are essentially items of expense in the daily, monthly, and yearly conduct of the company's business; the amount and date of payment is fixed and determined; they depend for liquidation solely upon the company's earning capacity as the business progresses. This is the only basis for a contingency with respect thereto, and no State law has been pointed out which requires the maintenance of reservations to secure these payments, especially of stated personal stipends to the agents of the company. Taxes, as a rule, are payable annually. A permanent reserve for their payment is not necessary or required by law, and they are not properly included in the net additions required by law to reserve funds. The statute specifically limits the deduction to sums *required by law*, not such reservations as business prudence may suggest. The State statutes

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prescribe the necessary reservations, and the commissioner was within the law in holding fast thereto.

It is not to be supposed that Congress in providing this specific exemption intended a wider latitude with reference thereto than the express words of the act clearly designate. The limitation is confined to net additions to reserve funds required by law, and the express provisions of statutory law fix the determining basis. State insurance companies can only act within the provisions of the State statute; so that in any event a firm basis is easily available for the application of the exemption provided in the Federal taxing acts.

It is to be noted in this connection that the commissioner observes any change in the status of State laws and amends his rulings with respect to additions to reserve funds in accord with the same.

The claimant company in its return for 1909 included in its deductions for net increase to reserve funds required by law but three items, viz, unearned premiums, loss claims, and unpaid liability claims. In 1910 it added to these items a claimed deduction for unpaid taxes and unpaid salaries. In 1911 it added brokerage, etc., and reinsurance due other companies, and in 1912 claimed a total amount of $670,791.89 made up by including a claim for each item specified above. The commissioner's rulings in his amended returns as to this item we believe to be correct.

The next contention is directly converse of the preceding one. Net additions to reserve funds are exempt, and if there are no net additions but a decrease in reserve funds, commonly called released reserve, is this amount taxable? In 1912 the claimant company, in its return to the Maryland State Department of Insurance, listed its special reserve for unpaid liability losses as amounting to $1,194,235. In the following year, with reference to this special item, the company stated the amount of $841,983, a decrease of $352,252. The increase in unearned premium reserve for 1913, as stated in claimant's original return, amounted to $81,784.67, for which amount the company was entitled to an exemption, leaving a total difference of $270,467.33, less sum required as reserve fund for 1913 over 1912, i. e., the company's reserve funds required by law were $270,467.33 less in 1913 than in 1912, and hence it became available for other business purposes.

The commissioner has consistently included the total sums of released reserves within the gross income of insurance companies and subjected the same to the excise tax. The claimant company since 1909 have accepted the ruling and made their returns accordingly. The issue is for the first time presented in the present suit.

A reserve fund is necessarily a certain portion of the company's income; it fluctuates as its volume of business increases or decreases, and it is difficult to trace its creation to the company's income in any specific year. Nevertheless, it is nothing more or less than the setting aside of certain portions of the company's assets accumulated during the course of business from its income, in order to secure the payment of certain liabilities incurred. The company receives a premium of $100; $50 of this sum must be reserved under the law to meet the contingency of reinsurance—unearned premium. While the $50 is exempt, it is none the less income. It escapes taxation the year it is exempt, but when the obligations of the policy have been discharged this amount is released from reserve. It becomes in theory and in fact an available asset, free from restrictions, to be used by the company as it may see fit. The Federal taxing act doubtless exempted net additions to reserve fund upon the theory of their actual reservation, the inability of the company to avail itself of these sums in the transaction of its current business affairs, aside from its specific liabilities upon insurance written, and while the law does not in express terms use the phrase "released reserves," we believe the amounts realized are taxable as coming within the general term "gross income" for the calendar year from all sources. As was said by Mr. Justice Day in Flint *v.* Stone Tracy Co., supra:

This tax, it is expressly stated, is to be equivalent to one per centum of the entire net income over and above $5,000 received from *all sources* during the year; this is the measure of the tax explicitly adopted by the statute. The income is not limited

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to such as is received from property used in the business, strictly speaking, but is expressly declared to be upon the entire net income above $5,000 from all sources, excluding the amounts received as dividends on stock in other corporations, joint-stock companies or associations, or insurance companies also subject to the tax. In other words, the tax is imposed upon the doing of business of the character described, and the measure of the tax is to be the income, with the deduction stated, received not only from property used in business but from every source. This view of the measure of the tax is strengthened when we note that as to organizations under the laws of foreign countries the amount of net income over and above $5,000 includes that received from business transacted and capital invested in the United States, the Territories, Alaska, and the District of Columbia.

It is further strengthened when the subsequent sections are considered as to deductions in ascertaining net income and requiring returns from those subject to the act. Under the second paragraph the net income is to be ascertained by certain deductions from the gross amount of income received within the year "from all sources"; and the return to be made to the collector of internal revenue under the third section is required to show the gross amount of the income received during the year "from all sources." The evident purpose is to secure a return of the entire income, with certain allowances and deductions which do not suggest a restriction to income derived from property actively engaged in the business. This interpretation of the act, as resting upon the doing of business, is sustained by the reasoning in Spreckels Sugar Refining Co. *v.* McClain (192 U. S., 397), in which a special tax measured by the gross receipts of the business of refining oil and sugar was sustained as an excise in respect to the carrying on or doing of such business.

The sums released from reserve funds can not be said to be exempt as reserve funds, for they no longer retain that character. They have always been part of the gross income and accounted for as such during the years of their accumulation. When released, therefore, they must of necessity have some particular status in the business transactions of the company, and while they do not augment the gross income for the particular year in which they are released, they are in their very essence income and the statute expressly says "income from all sources." If this especial exemption had not been provided all the funds reserved would have been accounted for in the company's returns as income received. They are income received, but exempt when required to be reserved. When the requirement of the law has been subserved they then become a part of the gross income for the year in which they are released. This has been the construction given since the passage of the taxing act.

It is apparent from what has been said that the case must be remanded to the general docket for a restatement of amounts due in accord with this opinion. It ought not to be difficult to agree upon a statement of amount. The case in this respect is quite involved, but the parties themselves are in position to ascertain this fact with much more accuracy than the court.

It is ordered that the case be remanded to the general docket for a restatement of amounts due. Thirty days from this date will be allowed for this purpose, after which time the case will be placed upon the trial calendar and finally disposed of.

(T. D. 2452.)

Income tax.

Authorizing the use by nonresident alien record owners of income-tax certificate Form 1087 to disclose actual ownership and claim exemption from withholding at source of domestic dividend payments.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE
Washington, D. C., February 27, 1917

To collectors of internal revenue:

When a nonresident alien record owner of stock of domestic or resident corporations is an organization subject to withholding at the source of dividend payments, as provided by section 13 (f) of the act

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of September 8, 1916, but is not the actual owner of the stock, such record owner may adapt income-tax certificate Form 1087 to disclose actual ownership and to claim exemption from withholding by striking out the words "to be filed with representative in the United States of such foreign principal" in the caption and the words "in the United States" in the body of the form and executing the certificate as the representative of the actual owner, as provided in the space for signature.

Thus modified, certificate Form 1087 may be filed, under the penalties prescribed for misrepresentation, with debtor corporations or their withholding agents in the United States and may be accepted by them as evidence that the record owner is not liable for income tax on the dividends to be paid and hence is not subject to having tax withheld.

If the record owner does not exercise his right to disclose actual ownership for the purpose of claiming exemption from having tax withheld at the source, debtor corporations and their withholding agents in the United States will be held liable on their stock records of ownership for the tax required to be withheld by section 13 (f) of the act of September 8, 1916.

In the absence of a disclosure of actual ownership filed with debtor corporations or their withholding agents on certificate Form 1087, the normal tax required to be withheld in accordance with stock records of ownership can only be released to a record owner not liable for tax upon a proper showing to the Commissioner of Internal Revenue of record and actual ownership, the names and post-office addresses of debtor corporations and withholding agents, and the amounts withheld.

As a record owner is held to be "the proper representative having the receipt, custody, control, or disposal" (sec. 9 (g), act of September 8, 1916) of income of the actual owner, this showing should be made by means of a return by or in behalf of the actual owner when the actual owner is liable for a return under the provisions of law.

When a return is not required to be filed by or in behalf of the actual owner, the showing may be made upon the certification of the record owner.

Upon the showing thus made, either by certification or return, as the circumstances may require, the Commissioner of Internal Revenue will make such assessments and issue such instructions to debtors and withholding agents as will insure the proper collection of tax in accordance with the respective actual tax liabilities.

T. D. 2401 of November 29, 1916, is modified accordingly.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
Byron R. Newton,
Acting Secretary of the Treasury.

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(T. D. 2453.)

Estate tax.

The deductions from the gross estate provided in section 203, paragraph 1, are limited to amounts allowed under the laws of the local jurisdiction.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 7, 1917.

SIR: Receipt is acknowledged of your letter of the 3d instant, quoting section 203, paragraph 1, of the estate-taxing act and inquiring whether the phrase "such other charges against the estate as are allowed by the laws of the jurisdiction" is interpreted by the bureau as limiting all the preceding clauses of the paragraph; that is, whether any amounts could be deducted from the gross estate because of funeral expenses, claims against the estate, losses, etc., which were in excess of the amounts allowable under the laws of the local jurisdiction.

While the punctuation and construction of the paragraph may not be absolutely conclusive upon this point, it is the opinion of this office that the limitation set up in the concluding part of the paragraph applies to all the items enumerated in the paragraph; that is, there could not be deducted from the gross estate in determining the net estate liable to tax any funeral or other expenses or any losses and charges which were in excess of the amounts allowable under the laws of the local jurisdiction as credits to administrators or executors in their accounts in the probate courts.

It is so ruled.

Respectfully,

WM. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2454.)

Estate tax.

Duties of heirs, donees, trustees, fiduciaries, transfer agents, and others having or coming into possession of property of a decedent whose estate is liable for estate tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 28, 1917.

To collectors of internal revenue:

Section 200 of the revenue act of September 8, 1916, in defining the term "executor" as including, "if there is no executor or ad-

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ministrator, any person who takes possession of any property of the decedent," clearly intended to provide that wherever circumstances are such that the Government could not proceed against an administrator or executor for satisfaction of the requirements of the taxing act there shall be no failure, because of inability to hold others in possession responsible, to collect the whole tax due.

Careful consideration has been given in the light of this intent of Congress to the problem of determining how far the duties of filing 30-day notice and return and making tax payment may be left solely to duly appointed executors or administrators, and to what extent, in order to insure the collection of tax due, others in possession must be required to assume these responsibilities. As a result of this consideration the following supplemental regulations are promulgated, under authority of section 212 of the act.

Estates of resident decedents.

Thirty-day notice (Form 705) must be filed, within 30 days after death of the decedent whose estate is taxable, by others than executors or administrators, as follows:

(1) By the surviving husband or wife, as the case may be, for one-half the value at the decedent's death, of community property owned by the decedent and the survivor.

(2) By the first taker after the decedent of any of decedent's real property where this passes, in accordance with the local law, directly to the heirs of decedent.

(3) By donees who have received within two years prior to the decedent's death any gift of material value from the decedent, or who have received at any time whatever gifts made by decedent in contemplation of, or intended to take legal effect at, death.

(4) By trustees holding property conveyed during lifetime by the decedent in contemplation of death or with intent to provide for others than decedent at or after decedent's death, regardless of the date of the instrument making the conveyance, or the date of possession by the trustee, or the date of vesting of the right of survivors to possession or enjoyment at or after decedent's death.

(5) By fiduciaries holding property of any kind jointly or in entirety for the decedent and another or others.

(6) By any other person, persons, joint-stock companies, corporations, or associations holding at, or taking immediately upon, decedent's death any property inclusive in the gross estate under the definition of section 202 of the taxing act, which property may not be taken in charge by decedent's executors or administrators, if any.

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When the collector of internal revenue shall receive Form 705, filed as above required, he shall proceed as indicated in Article XII of regulations No. 37. If, at the expiration of one year from decedent's death, it has not been ascertained that an administrator or executor has been appointed for the decedent's estate, the collector will proceed to secure return and tax payment from the beneficiary or beneficiaries, in accordance with Articles XVI and XVII of regulations No. 37.

Estates of nonresident decedents.

The 30-day notice (Form 705) is required to be filed for all property of every kind, located or legally situate in this country (including Hawaii and Alaska), by those agents or representatives, donees, transferees, trustees, or fiduciaries of a decedent dying domiciled abroad, whether alien or citizen of the United States. The notice must be filed within 30 days from decedent's death with the collector of internal revenue in whose district the property within this country is situate, unless the local agent, etc., having the property in charge knows that there is other property of decedent located in another collection district, in which case the notice is to be filed with the collector of internal revenue, Baltimore, Md.

If it be not possible for the local agent, representative, etc., to file the notice within 30 days from death of the nonresident, the penalty denounced in section 210 will not be asserted if the notice is filed within 30 days from the day upon which the local agent, representative, etc., receives information of the nonresident decedent's death.

Each collector receiving Form 705 showing property of a nonresident will immediately inform the commissioner of the fact. A record will be kept in the commissioner's office from which it can be determined whether Forms 705 for a given estate have been filed in more than one collection district, in which case the several collectors will be instructed to forward the Forms 705 to the collector at Baltimore, Md.

In due time, if the administrator or executor of the nonresident decedent has failed to file return as provided in section 203, paragraph (b), and pay the tax due, the collector shall require such return and tax payment from the local agent, representative, etc. No deductions whatever from the gross estate will be allowed in such a case unless all the property of the nonresident decedent is shown to be located in this country and it is established that all has been returned for estate tax. Where there is more than one holder in this country of decedent's property, the collector will aggregate the separate returns, proceeding in accordance with Article XVII of regulations No. 37.

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Under no circumstances may the local agent, representative, etc., release to a foreign administrator or executor or a foreign beneficiary of the decedent any property within this country at the time of decedent's death until either (1) the tax due because thereof has been paid or (2) ancillary letters have been taken out in this country or otherwise provision has been made by the estate for the satisfaction of the tax lien resting upon the decedent's property in this country. When such ancillary letters have been taken out or such provision has been made, the local agent, representative, etc., shall immediately inform the collector fully as to the facts.

An administrator or executor acting in a foreign country will not be recognized as relieving others in charge or possession of a decedent's property from responsibility for satisfying the requirements of the taxing act unless and until he has made return and tendered payment of all tax due. The penalty denounced in section 210 of the act will be asserted against every agent, representative, etc., in this country releasing to a foreign administrator or executor or beneficiary of the decedent the property within this country, except where the requirements of this regulation have been complied with.

The above regulation fully applies to transfer agents of corporate stock or bonds, receiving into possession for transfer purposes such personalty of a nonresident decedent. The transfer shall not be effected or the stock or bonds released to the foreign administrator or executor or the succeeding beneficiary until the transfer agent shall have been fully assured either that the tax due has been paid or that ancillary letters have been taken out in this country or provision otherwise made for the satisfaction of the tax lien against the estate.

This ruling applies also to safe-deposit companies, warehouses, and similar custodians of property in this country of a nonresident decedent, to brokers holding as collateral securities belonging to a nonresident decedent, to banking institutions holding money of nonresident decedents on deposit or for any specific purpose, such as the purchase of goods, so long as the title rests in the nonresident decedent, his estate or his heirs, and to debtors in this country of nonresident decedents.

It does not apply to carriers of property of a nonresident decedent while such property is in their charge for the purpose of transit.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

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(T. D. 2455.)

Distilled spirits.

Applications for, and record of, wholesale liquor dealers' stamps.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 14, 1917.

To collectors of internal revenue:

Form 92 (application for wholesale liquor dealer's stamp) has been revised and the revised form will be used to the exclusion of all former editions, both of Form 92 and Form 92½, on and after July 1 next.

On July 1 the keeping of record 41 will be discontinued and in lieu thereof Form 92 will be filed, folded, in check-size drawers, in chronological order behind guide cards bearing the names of the wholesale liquor dealers applying for stamps. The filing of these forms in folded condition instead of flat is deemed necessary in order to prevent the separation of the stamp slips from the forms to which they pertain. Two files will be maintained for this purpose, one for applications covering the entire quantity of spirits in the package and the other for applications covering only a portion of the contents of the package. The first of these will be designated, for convenience, as the "dead file" and the second as the "live file." As soon as the balance on any application has been exhausted the same will be transferred from the "live file" to the "dead file," so that the former will at all times contain applications showing a balance of spirits still due, while the latter will contain applications on which no balance is due and which are consequently not current. In cases where more than one application is made those subsequent to the first will be filed therewith until disposition shall have been made of the entire quantity, when the various applications are to be transferred to the "dead file" according to their dates.

A moderate supply of the revised Form 92 will be forwarded to collectors in time for distribution before July 1, after which date all blanks of Form 92 and Form 92½ of former editions will be destroyed, wholesale dealers being given to understand that applications on the old forms will not be accepted after that date.

Check-size drawers are standard equipment, coming in sections containing either three or six drawers. The inside dimensions of each drawer should be not less than 9⅛ inches wide, 4½ inches high, and 15 inches deep. Where equipment of this kind is not on hand, collectors (whose districts furnish business of this kind) whose offices are located in Federal buildings should file requisition at once upon the custodian of the building for the necessary sections

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of check-size drawers of dimensions mentioned for filing Form 92. Collectors whose offices are not located in Federal buildings should obtain competitive bids from local dealers in this class of equipment, and submit same, together with their recommendations, to this office.

The regulations in regard to applications for wholesale liquor dealers' stamps and record thereof in collectors' offices are hereby modified accordingly, to take effect July 1, 1917.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2456.)

Assignment of storekeeper-gaugers to distilleries, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 16, 1917.

To collectors of internal revenue and others concerned:

The provisions of T. D. 2438 of January 29, 1917, are hereby modified as follows:

Hereafter, under the authority conferred by section 3153, Revised Statutes, as amended, at each distillery in operation where the daily surveyed capacity is 150 bushels of grain or less one officer in the dual capacity of storekeeper-gauger will be assigned to perform all necessary services thereat.

At each distillery in operation where the daily surveyed capacity exceeds 150 bushels one or more officers in the dual capacity of storekeeper-gaugers and one or more storekeeper-gaugers in the separate capacity of gaugers will be assigned to perform all necessary services.

At all distilleries under suspension storekeeper-gaugers in the dual capacity will be assigned unless the capacity of the distillery exceeds 500 bushels daily, when one or more storekeeper-gaugers in such dual capacity and one or more storekeeper-gaugers in the separate capacity of gaugers will be assigned to meet the needs of the service.

Officers in the dual capacity of storekeeper-gaugers will also be assigned whenever and wherever, in the opinion of the Commissioner of Internal Revenue or the collector it is deemed advisable, regardless of the capacity of the distillery, whether or not it is in operation or the quantity of spirits in warehouse.

The signatures of the various officers will be in conformity with the character of their assignments.

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All officers assigned in the dual capacity of storekeeper-gaugers, as well as those assigned in the capacity of gaugers, will be required to remain on duty throughout the usual working hours of the day, regardless of the quantity of spirits gauged; and both will perform any and all kinds of service under the direction of the collector and the officer in charge as may be necessary. The collector will indicate which officer is to have charge, as contemplated in T. D. 2438.

Collectors will indicate the character of services performed, as near as practicable, on Form 241, as instructed in T. D. 2438, care being exercised, however, in the case of those who are to be assigned in the separate capacity of gauger.

Storekeeper-gaugers assigned as gaugers will be compensated by fees, as heretofore, at the rates stated in the Gaugers' Manual.

This modification will be effective on and after the 1st instant and collectors will recommend accordingly.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2457.)

Capital-stock tax.

A corporation organized for the purpose of buying, owning, exploring, developing, leasing, improving, selling, and dealing in lumber lands, mining lands, or other real property is "engaged in business" and subject to the capital-stock tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 14, 1917.

SIR: Receipt is acknowledged of your letter of the 9th instant, inclosing a copy of a communication from the ——— Coal & Coke Co., which is assessed $325.25 capital-stock tax on your Form 23 C for January, 1917, folio 4, line 11, contending that it is not subject to this tax, inasmuch as it is "not an operating company, but is the owner of lands and coal lands * * * which have never been mined since the organization of the company."

Mr. ———, secretary and treasurer of the company, refers to a statement made by a collector of internal revenue that he "is not enforcing the payment or assessing any taxes against companies that are not operating."

In reply to your inquiry you are advised that Mr. ——— has undoubtedly misinterpreted the statement of the collector as apply-

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ing to his company. Under the decision of the Supreme Court in the case of Von Baumbach *v.* Sargent Land Co. et al., decided January 15, 1917 (printed in T. D. 2436), it is very clear that a company organized for the purpose of buying, owning, exploring, developing, leasing, improving, selling, and dealing in lumber lands, coal or other mining lands, tenements, and hereditaments is an active corporation if it performs *any* of those powers, and is subject to the capital-stock tax.

It appears from Mr. ———'s letter that the ——— Coal & Coke Co. is not a corporation that has discontinued business, as in the case referred to in Zonne *v.* Minneapolis Syndicate (220 U. S., 187), but is still active and is maintaining its organization for the purpose of continued efforts in the pursuit of profit and gain and such activities as are essential to those purposes.

A number of inquiries have been made regarding the liability of corporations of this character to the capital-stock tax, and this office has held in each case that a company organized for the purpose of owning, developing, and speculating in mining land or other real property is engaged in business within the language of the several Supreme Court decisions, and is subject to the capital-stock tax imposed under section 407, act of September 8, 1916.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

COLLECTOR INTERNAL REVENUE,
Parkersburg, W. Va.

(T. D. 2458.)

Munitions manufacturers' tax.

Net profits received in 1916 or subsequent years on munitions contracts entered into but not fully performed prior to January 1, 1916, shall be returned for the purpose of the tax as income of the year in which received.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 16, 1917.

To collectors of internal revenue:

Your attention is called to the fourth full paragraph of article 10, regulations 39, issued under date of October 24, 1916, which reads as follows:

If, however, the contracts were not fully performed prior to January 1, 1916, any profits resulting from that part of the contracts performed subsequent to January 1, 1916, must be returned for the purpose of the tax.

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This paragraph would imply that any profits received subsequent to January 1, 1916, resulting from that part of the contracts performed prior to that date, might be omitted from the income returned for the purpose of the tax. To the extent that this paragraph is subject to this interpretation, it is erroneous.

Section 301 of Title III of the act of September 8, 1916, contains a proviso which reads as follows:

> *Provided, however,* That no person shall pay such tax [12½ per cent on the entire net profits] upon net profits received during the year nineteen hundred and sixteen derived from the sale and delivery of the articles enumerated in this section under contracts executed and fully performed by such person prior to January first, nineteen hundred and sixteen.

This proviso applies only in cases wherein the contracts were both executed and *fully performed* by the contractor prior to January 1, 1916, all manufacturing having been completed and all deliveries having been made, so that there remains only the collection of any amounts due and unpaid on such fully performed contracts.

In such cases the amounts received subsequent to January 1, 1916, on such fully performed contracts will not be returnable for the purpose of the tax when received. If, however, subsequent to January 1, 1916, net profits are received on contracts entered into and but partially completed prior to that date, the amount of such net profits so received on such partially completed contracts shall be returned as taxable profits for the year in which received. Except as indicated in the proviso hereinbefore quoted, the tax imposed by this title is assessable upon the entire net profits *received or accrued* during the taxable year.

Whether any net profits received subsequent to January 1, 1916, are taxable under this title will depend upon whether or not the contract under which the profits accrued was fully performed prior to that date. Unless the contract was so fully performed prior to January 1, 1916—that is, unless the contractor had fully complied with all the terms of his contract, both as to the manufacture and delivery of the articles covered by the contract—any profits received subsequent to January 1, 1916, on such contract, even though in payment of deliveries made prior to that date, must be returned for the purpose of the tax for the year in which received.

In so far as the paragraph in article 11, regulations 39, implies that any profits which accrued on deliveries made in 1915 under contracts not fully performed prior to January 1, 1916, and which profits were received subsequent to that date, should not be returned as taxable income when received, it is erroneous, and is hereby annulled.

The tax being imposed upon net profits received or accrued, the revised ruling, as hereinbefore set out, contemplates that all *net profits*

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received subsequent to January 1, 1916, on contracts not then fully performed must be returned as taxable profits of the year in which received, regardless of when they may have been earned or accrued. Hence net profits received subsequent to January 1, 1916, on deliveries made under contracts which were but partially performed at that date constitute taxable income of the year in which received and can not be lawfully excluded therefrom.

Collectors will advise munitions manufacturers of the substance of this decision.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:

W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2459.)

Untax-paid wines in hands of dealers.

Untax-paid wines stored on unbonded premises to be tax paid on or before May 1, 1917.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., March 13, 1917.

To collectors of internal revenue and others concerned:

Section 402 of the act of September 8, 1916, in authorizing the establishment of *bonded* premises for the storage of untax-paid wines provides that the tax therein imposed "shall be paid by stamp on removal of the wines from the customhouse, winery, or other bonded premises."

By regulation (regulations 28, supplement 2) wholesale dealers having unstamped wines on hand at the time this act took effect—namely, the day following its passage—were permitted to hold such wines on premises not then bonded. This privilege was accorded in view of the early date on which the act named went into effect, and the further fact that under the previous act of October 22, 1914, such dealers were permitted to hold unstamped wines on unbonded premises.

Ample time has now been granted such dealers to bond their premises or to pay the tax on the wines so held by them, and collectors will at once notify all such dealers in their respective districts that the tax on all such unstamped wines so held must be fully tax paid on or before May 1, 1917, and that all untax-paid wines found on unbonded premises after that date will be seized for forfeiture.

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So much of regulations 28, supplement 2, as is inconsistent herewith is hereby revoked.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved.
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2460.)

Emergency revenue act of October 22, 1914—Special tax on bankers—Decision of court.

1. CAPITAL, SURPLUS, AND UNDIVIDED PROFITS EMPLOYED IN BANKING.
The capital, surplus, and undivided profits of a trust company doing business as banker invested in stocks, bonds, and securities are treated as used and employed in banking within the meaning of section 3 of the act of October 22, 1914. The tax imposed is upon so much thereof as are used in the banking business.

2. ASSETS OF THE COMPANY.
The deposits and the investments are all equally assets of the bank. The claims of depositors are liabilities of the bank. The capital, surplus, and undivided profits are simply what may be left after the satisfaction of the liabilities to depositors and other creditors. The creditors may be paid out of any portion of the assets of the company, and the capital, surplus, and undivided profits represent a residue which, like the claims of creditors, may be made good out of any of the securities, cash, bills of exchange, promissory notes, or other resources of the bank, including its real estate.

3. PERMANENT INVESTMENTS—BOOKKEEPING.
It is a question of fact to be determined at the trial how far the permanent investments were employed in banking. The fact of employment or nonemployment is not to be determined by methods of bookkeeping but by real transactions.

4. FARMERS' LOAN & TRUST CO. v. TREAT (171 FED., 301) DISTINGUISHED.
This case is distinguished from the cases of Central Trust Co. *v.* Treat and Farmers' Loan & Trust Co. *v.* Treat (171 Fed., 301).

5. VALIDITY OF THE ASSESSMENT.
The burden is on the company to establish by a preponderance of evidence that the tax collected, or some part of it, was not due.

6. TAX NOT UNCONSTITUTIONAL.
The contention that the tax is unconstitutional because it is a direct tax and not apportioned is without merit.

7. REVERSAL OF JUDGMENT.
Judgment of the District Court is reversed and the case remanded for a new trial.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 17, 1917.

The appended decision of the United States Circuit Court of Appeals for the Second District, also the concurrent opinion of

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Judge Ward, in the case of Charles W. Anderson, collector of internal revenue, *v.* Farmers' Loan & Trust Co., are published for the information of internal-revenue officers and others concerned.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

Charles W. Anderson, late collector of internal revenue, second district of New York, plaintiff in error (defendant below), v. Farmers Loan & Trust Co., defendant in error (plaintiff below).

Before COXE and WARD, Circuit Judges, and AUGUSTUS N. HAND, District Judge.

The Farmers Loan & Trust Co. brought an action in the District Court for the Southern District of New York against the former collector of internal revenue to recover $4,809.34, the amount of taxes paid under protest. The taxes were imposed under the war-revenue act, chapter 331 of the laws of 1914 (38 Stat. L., pp. 745–764). Section 3, subdivision "First," provides:

Bankers shall pay $1 for each $1,000 of capital used or employed, and in estimating capital, surplus, and undivided profits shall be included. The amount of such annual tax shall in all cases be computed on the basis of the capital, surplus, and undivided profits for the preceding fiscal year. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be a banker under this act: * * *.

The Farmers Loan & Trust Co. is authorized by the laws of New York, under which it is chartered, to do a banking business as well as a trust-company business. While it is one of the principal companies in New York which acts as executor, trustee, guardian, and depository, it also does a very large banking business under the definition of a "banker" given in the section of the war-revenue act above quoted.

The trial judge directed a verdict for the Farmers Loan & Trust Co. at the trial for the recovery of the tax from the former collector to whom it was paid, and upon the judgment on that verdict a writ of error has been granted.

AUGUSTUS N. HAND, District Judge: Three principal questions are involved:

(1) Was any part of the capital, surplus, or undivided profits of the trust company used or employed in banking?

(2) If any part was so used or employed, did the Commissioner of Internal Revenue have any proof of that fact before him which could furnish a basis for a lawful tax?

(3) If the commissioner had no such proof was the tax, even though in fact due, legally collectible?

If the first question is answered in the negative, manifestly no tax could have been imposed in any event.

The trust company held investments to an amount exceeding the capital, surplus, and undivided profits. While these investments changed from time to time, they were held for long periods, and assets of the amount indicated may fairly be said to have been regularly invested. In 1906 the trust company for the first time opened a so-called "capital investment account," to which bonds

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and mortgages were debited to an amount exceeding the capital surplus and undivided profits. These mortgages appear to have been carried from the securities account and entered in this capital account in pencil.

We do not think that the possession of securities of a value exceeding the capital, surplus, and undivided profits is proof that no part of the capital, surplus, and undivided profits is used or employed in banking. Deposits are not the property of the depositors but of the trust company. The relation of a bank and its depositors is that of debtor and creditor, so that the deposits and the investments are all equally assets of the bank. The claims of depositors are liabilities of the bank. The capital, surplus, and undivided profits are simply what may be left after the satisfaction of the liabilities to depositors and other creditors. The creditors may be paid out of any portion of the assets of the company, and the capital, surplus, and undivided profits represent a residue which, like the claims of creditors, may be made good out of any of the securities, cash, bills of exchange, promissory notes, or other resources of the bank, including its real estate. No segregation took place, and the attempted segregation was an artificial transaction that, in our opinion, had no reality. The statute, upon any other theory, becomes futile and meaningless and enables any bank holding investments equivalent in value to its capital, surplus, and undivided profits to be exempt from any franchise tax under the war-revenue act.

Judge Wallace, writing for this court in the case of Leather Manufacturers' National Bank *v.* Treat (128 Fed., 262), said that undivided profits were taxable as part of the surplus employed in the banking business under the provisions of the war-revenue act of 1898, which taxes capital and surplus employed in banking, and remarked that—

> The argument for the plaintiff in error, if carried to its logical conclusion, would enable a banking corporation to escape the tax at its volition merely by refraining from making any distinct appropriation of the undivided profits. The tax reaches whatever has become substantially a part of the capital of the corporation without regard to bookkeeping. Upon the facts set forth in the complaint there is nothing to distinguish the undivided profits in controversy from the fund which many banking associations carry for years under that name, and which, though not technically surplus or theoretically capital, are actually a part of the capital of the bank. There is nothing in the circumstance that they were considered by the bank as a fund applicable to extra dividends and to unexpected losses and to depreciation of assets to distinguish such accumulations from the technical surplus fund of the bank.

Judge Lacombe, upon the trial of the cases of Central Trust Co. *v.* Treat and Farmers' Loan & Trust Co. *v.* Treat (171 Fed., 301, 302), distinguished these cases from the case of Leather Manufacturers' Bank *v.* Treat, supra, by saying that in that case the company—

> was a bank engaged solely in a banking business, and presumably all the property that it had was employed in such business. But in the case at bar the plaintiff is not a bank or banker, and, although it does some of the things enumerated in the section as indicative of such business, its principal business seems to be distinctively that of a trust company.
>
> It will be observed that the "capital and surplus," which is subjected to the tax, is that which is used or employed by the banker, i. e., in the banking business. The evidence shows that the entire amount of these undivided profits before, during, and at the end of the fiscal year were invested in municipal and railway bonds and in the stocks of the corporations and were not in any sense employed in the business of banking, although the ownership of this large amount of securities available to make good losses in any of the enterprises which the corporation was conducting naturally increased its credit generally.

Thus Judge Lacombe seems to have based his decision primarily on the ground that the Farmers Loan & Trust Co.'s "principal business was distinctively that of a trust officer," and upon a finding of fact that the capital and surplus were

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"invested in municipal and railway bonds and in the stocks of corporations, and were not in any sense employed in the business of banking." This finding was based upon an affidavit of the president of the trust company in which it was stated at folio 200 of the record on appeal to this court that—

The entire capital and undivided profits of the said The Farmers Loan & Trust Co. are invested in real estate, bonds of the Government of the United States, and of the city of New York, State of New York.

Upon this record the judge writing the opinion of this court said that—

The agreed statements show that the capital and surplus of both companies are permanently invested in stocks and bonds. Treat *v.* Farmers Loan & Trust Co. (185 Fed., 760).

It is obvious that the trial judge in the present case was wholly controlled by what he conceived to be the rule laid down in Treat *v.* Farmers Loan & Trust Co., supra. He said in answer to argument of counsel for the Government:

I am wholly persuaded that the ruling of the higher court was that for the purpose of avoiding the taxes under the act of 1898 it was enough if an amount of money, I care not where derived, equal to or greater than the aggregate of capital, surplus, and undivided profits was kept permanently invested. * * *

We do not think that the Treat case justified this conclusion of the trial judge and regard the case of Canal & Banking Co. *v.* New Orleans (99 U. S., 97), as holding that no such application of investments to capital, surplus, and undivided profits follows from the mere possession of them. In that case the Canal & Banking Co. was assessed by the City of New Orleans for $700,000 as its capital, and the bank refused to pay the assessment, alleging that its capital not invested in real estate consisted of legal-tender notes of the United States. The Supreme Court said:

* * * There was no proof in the cause to establish the fact that these notes constituted the capital of the bank any more than that any other equal portion of its assets constituted such capital.

The nominal capital of the bank was $1,000,000 and, estimating its real estate at $200,000, the assessment was still $100,000 less than the balance of the nominal capital, and it was conceded that the bank had a large amount of assets independent of the currency in its possession. * * * Now, does it lie with the bank to put its finger on a particular item of the assets—its money on hand, for example (which appears to have consisted of legal tenders)—and say that this item, and no other item, constituted its capital at that time? Does this depend on the mere option of the bank? Why was not its cash on hand just as applicable to its deposits and other obligations as to its capital? Not a particle of proof was offered, and it is difficult to see how any proof could have been offered to show that the cash exclusively constituted the capital.

See, to the same effect, People ex rel. Commercial Cable Co. *v.* Morgan (178 N. Y., at p. 440); State ex rel. Jacobs *v.* Assessor (37 La. Ann., 851); Germantown Trust Co. *v.* Lederer (229 Fed., 799).

Both the banking powers and the varieties of banking business done by the Farmers' Loan & Trust Co. have apparently increased since the decision was rendered in the Treat case. Judge Ward, in the opinion of the Circuit Court of Appeals, on the appeal from the decision of Judge Lacombe, in that case, said:

The only business the companies do as bankers within the definition of banking in the act is the opening of credits by deposit or collections of money and paying the same on check, draft, or order, and the loaning of money on stocks, bonds, or secured paper.

By the amendment of 1914, trust companies were allowed in addition to their former banking powers to discount commercial paper and to accept drafts drawn upon them. The real distinction, however, which may be made between

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the case of Treat *v.* Farmers' Loan & Trust Co. (185 Fed., 760) and the case at bar is that in the Treat case the trial judge found as a fact that the capital and surplus were not employed in banking, but were permanently invested. In Leather Manufacturers' Bank *v.* Treat, supra, this court had reached an opposite conclusion in a case where the sole business was banking.

The Farmers' Loan & Trust Co. does a large trust business, the extent of which is not shown by the record. It also does a large banking business, the extent of which is at least partially shown. It would be possible to determine by further evidence the relative proportionate amounts of assets employed in banking and in trust business. If such a proportion were determined and it appeared that one-half of the assets were employed in banking and the remaining one-half in trust business it would seem to follow that one-half of the capital and surplus was employed in banking. The computation might be difficult, but it seems to us entirely practicable.

The capital, surplus, and undivided profits which counsel for the defendant in error insists were not employed in banking, but were permanent investments, we regard as employed in all the business of the bank of every kind. They were available for any use, equally with all other assets of the company, and were, therefore, employed both in the banking and other business. And this is because the words "capital, surplus, and undivided profits" relate to no particular kind of property, but are expressions describing the amount of the residue of the assets after the liabilities have been deducted.

The question will doubtless arise hereafter whether the so-called permanent investments of the plaintiff can be regarded as employed in banking.

Counsel for the trust company urge that the case of Spreckels' Sugar Refining Co. *v.* McClain (192 U. S., 397) is conclusive. This is not the case. The Supreme Court there held that interest received by that company from its deposits and dividends received by it from securities of other companies which it owned were not taxable under the Spanish War tax as gross receipts in the business of refining sugar. The court said:

> But, clearly, neither interest paid to the plaintiff on its deposits in bank, nor dividends received by it from investments in the stocks of other companies, were receipts in the business of refining sugar. The moneys deposited by the plaintiff in bank were, we assume, on this record, the profits it had earned in the business in which it was engaged. Profits did not necessarily remain in the business; and whether they would be divided among stockholders or be used in the further prosecution of the business was for the plaintiff to determine. They could have been used for purposes wholly distinct from the business of refining sugar. We are of the opinion that the receipts by the plaintiff of interest on its bank deposits had no necessary relation to the business of refining sugar, but rested wholly upon some agreement or understanding between the bank and the depositor, which had no direct connection with that business. And the same thing may be said of plaintiff's investment of its moneys in the stocks of other companies. In the absence of any showing to the contrary, it must be assumed that the declaration or the receipt of dividends on such stocks was wholly apart from the particular business in which the holder of the stock was engaged.

The case at bar seems somewhat different. In the first place it is doubtful if any such occasion for the existence of the investments appeared in the Spreckels case as in the case of a banking institution where large reserves are so important to the conduct and success of business. These investments, as the undivided profits in the case of Leather Manufacturers' Bank *v.* Treat, supra, are all to be regarded as employed in the business of the company.

In the case at bar the tax is levied on capital employed in banking and not upon income derived from the banking business. Assets may be employed in the business of banking when dividends derived from them are not receipts from the

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banking business at all. In other words, the terms of the statute regulating the tax in the Spreckels case were different from those in the act determining the tax for the case at bar. The Spreckels case, therefore, never decided that the deposits and securities of that company were not employed in the business of refining sugar, but only held that income derived from those assets could not properly be regarded as coming within the definition of receipts from the business of refining sugar.

It is, therefore, a question of fact to be determined at the trial just how far the so-called permanent investments were employed in banking. We do not feel disposed to determine this as a matter of law without having before us the respective requirements of the plaintiff's banking and trust business for such a character of securities. The nature of the employment of the company's real estate is also a question of fact. What proportionate amount is actually used for the banking business and for the trust business? If a further proportionate amount is used merely for leasing purposes, is such an employment in a purely additional line of business, or is it only in the banking and trust business because a mere method of saving rental for those lines of business where the land was too valuable to justify a building to be occupied only for offices of the company itself?

We, therefore, do not intend to intimate that the trial court is not free to determine from the evidence offered how far the capital, surplus, and undivided profits are employed in banking. But the fact of employment or nonemployment is not to be determined by methods of bookkeeping but by real transactions. We have suggested certain presumptions apparently arising from the record at the former trial to assist the court in dealing with the proof which is likely to be hereafter offered.

At the risk of some reiteration, the foregoing views may be summarized as follows:

When a trust company is organized, obtains subscriptions for capital stock, and then opens its doors, begins business, and receives various deposits, its assets comprise all its property of every kind. Some of this property it will invest in mortgages, bonds, and stocks; other portions it will loan; still other portions, constituting its cash on hand, it will hold to be drawn against by its customers; other portions of its funds will be used to pay clerks who are engaged solely in the trust and not in the banking and of the business. We do not regard any specific assets as constituting capital of the company. The capital, and in the same way the surplus and undivided profits, are the residue left after paying the obligations of the bank to its depositors, and any other indebtedness it may have. These claims may be satisfied out of any property and the balance remaining, which is the capital, surplus, and undivided profits, is to be imputed equally to all kinds of property which the trust company may possess. The proper way therefore to determine what part of the capital, surplus, and undivided profits is employed in banking is to find out what part of the total assets is so employed; when that is done, the same proportion of the capital, surplus, and undivided profits must be thus employed. Any other construction of the act seems to us unreasonable and to involve the almost inevitable result that trust companies, which are close competitors of the national banks (at times outstripping them in banking business) will be found to be entirely free from a tax which the national banks will have to pay. If investments in securities are held for a long time, and exceed in value the capital, and a designation of these investments as investments of capital can be regarded as indicating that the trust company employs none of its capital in banking, almost every trust company will escape the tax.

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The question remains whether the Commissioner of Internal Revenue was shown to have had anything before him which justified the tax, and, if not, whether the tax was legally collectible even though not in fact properly assessed. The commissioner had before him in the letter of Mr. Sinsel of January 15, 1915 (plaintiff's Exhibit E), the fact that the trust company did a general banking business, and in the letter of the secretary of the company, Mr. A. V. Heely, dated November 30, 1914 (plaintiff's Exhibit 2), the monthly average of its capital, surplus, and undivided profits. These letters each stated the claim of the company that the capital, surplus, and undivided profits were not employed in banking. This partial information justified the commissioner in concluding that the company was engaged in banking, and that it was taxable to some extent, but certainly furnished no sufficient basis for the assessment fixed, or the tax levied. The letter of Mr. Heely stated that the company was engaged in the business of a trust company, and, not only was this statement not contradicted by the letter of Sinsel we have referred to, but it is notoriously the fact that such is the case. The evidence before the commissioner, therefore, indicated that the capital, surplus, and undivided profits were employed both in the business of banking and trusts. In what relative proportions did not appear. The commissioner might have required a further return, but we do not think that he was obliged to do this and might make the assessment upon information derived from any source. (United States Revised Statutes, section 3176.)

This being the case, were the acts of the collector in collecting the tax wholly illegal? We think it settled by the decisions that the assessment was not made without jurisdiction, and was therefore prima facie valid. United States *v.* Rindakopf (105 U. S., 418); Clinkenboard *v.* United States (21 Wall., 65).

The fact that the commissioner might not have had sufficient evidence to justify his computation did not render it void. We think it was correctly said in Schafer *v.* Craft (144 Fed., 907; 153 Fed., 175, on appeal) that—

* * * Upon the most familiar principles one can not by suit recover any taxes once paid, which in fact were due even though the exact manner of their collection was not authorized. Dollar Savings Bank *v.* United States (19 Wall., 227); Haffin *v.* Mason (15 Wall., 671); Northern Pacific Railroad *v.* Clark (153 U. S., 252).

In order to recover any part of the taxes, the Farmers' Loan & Trust Co. should have shown just what portion of the tax was levied upon capital, surplus, and undivided profits which were not used or employed in banking. It was not sufficent to show that the commissioner proceeded without proper evidence or otherwise erroneously and then to rest, but the company had the burden of establishing, by a preponderance of the evidence, that the tax collected, or some part of it, was not due.

The contention that the tax can not be lawfully imposed under the Federal Constitution because it is a direct tax and was not apportioned is without merit. The tax is clearly upon a franchise to conduct the business of banking and by familiar authority is lawful. Patton *v.* Brady (184 U. S., 608); Thomas *v.* United States (192 U. S., 363); Flint *v.* Stone Tracy Co. (220 U. S., 107).

The judgment must be reversed and the case remanded for a new trial.

CONCURRENT OPINION.

WARD, Circuit Judge: As the tax imposed is only upon so much of the capital, surplus, and undivided profits as are used in the banking business, Congress plainly contemplated that less than the aggregate of these elements might be so used. If the intention had been to tax all the company's assets which were

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so used, it would have been easy to say so. The addition of the words "surplus and undivided profits" to the word "capital" shows that Congress was confining the tax to a specified portion of the company's assets. Obviously when a corporation, as in the present case, does other business in addition to banking, the whole capital, surplus, and undivided profits can not be used in each. How much, if any, is used must be a subject for proof. This is plainly stated in Canal Co. *v.* New Orleans (99 U. S., 97), where, however, the court held that no such proof had been offered. Trust companies have a large and quick asset in the shape of their depositors' accounts, which are no part of their capital, surplus, or undivided earnings. When the only banking done is, as in Central Trust Co. *v.* Treat (171 Fed., 301), the opening of deposit accounts and lending of money on collateral, it would be quite natural for the company in doing the business to resort first to deposited funds and perhaps to restrict the business to those funds. This is true in a less degree when the banking powers are more extensive. While mere entries in the company's books might not be decisive, still they may constitute part of the proof and resort should not be had to presumptions until positive proof fails.

(T. D. 2461.)

Distilled spirits lost in transit for export.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 16, 1917.

To collectors of internal revenue and others concerned:

As announced in T. D. 2350 of July 5, 1916, claims for remission of tax on distilled spirits lost in transit for export will not be required where the spirits are shipped in sealed cars and the seals, on arrival of the cars, are found intact, and where the loss reported does not exceed 4 wine gallons as to any one package, provided the average loss does not exceed 2 wine gallons per package as to all the packages gauged.

Where the loss reported exceeds that above stated, the party giving the transportation bond, if claiming relief under the provisions of the act of December 20, 1879, as amended (articles 125–127, regulations No. 28), must clearly and fully state in his application for relief the cause of such excessive loss, unless it shall satisfactorily appear from the report of the customs gauger that, upon a careful inspection of the packages, he found the loss to be due to leakage incident to transportation, and not to any defect in cooperage, such as could have been discovered upon careful examination of the package prior to shipment.

In case of such excessive loss, whether due to leakage or other cause, the applicant will be required to furnish a certificate from the

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proper officer of the transportation company setting forth whether or not the spirits so lost were insured by or on account of said company "in excess of the market value thereof, exclusive of the tax."

This evidence will be required in view of the provision contained in section 2 of the act named and the fact that it has been recently discovered that in some instances the spirits reported lost were insured in excess of their market value, less the tax.

The foregoing regulations will also apply to spirits lost in transit for export when shipped in unsealed cars, except that any loss in excess of 1 proof gallon per package will be regarded in such cases as excessive; and so much of T. D. 2335 and T. D. 2350 (internal revenue) as is inconsistent herewith is hereby revoked.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2462.)

Pool tables and bowling alleys.

Pool tables and bowling alleys exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of pool tables and bowling alleys in State armories, fire houses, etc., and also in clubs, Y. M. C. A. buildings, hotels, etc.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., February 16, 1917.

Sir: I have the honor to refer to your recent inquiry relative to the construction of the provision of the act of September 8, 1916, reading as follows:

> Proprietors of bowling alleys and billiard rooms shall pay $5 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, except in private homes, shall be regarded as a bowling alley or a billiard room, respectively.

With reference to the application of the said provision to pool tables, etc., maintained for the use of officers or employees, etc., of State and municipal governments, I have to state that careful consideration has been given to the matter, and it has been decided that the implied constitutional inhibition that the Federal Government can not tax the sovereign instrumentalities of a State government necessary to the exercise of its governmental functions can properly

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be held applicable only where such amusement equipment is the actual property of the government itself, and the tax, if laid, would fall upon the public treasury.

If, on the other hand, such implements belong to a fire or militia company, for instance, or the method of maintenance of the equipment is such that the tax would fall on the fire or militia companies or other institutions, or on the individual members thereof, it is not believed that the rule is applicable, and under such circumstances the tax is being required to be paid.

Attempts have also been made to convince this office that the term "private home" is applicable to such institutions as clubs, lodge halls, charitable homes for aged persons, etc. I do not think that such establishments are aptly described by the term "private home," and the conviction is felt that the words, as used in the act, were intended to be taken in their common and ordinary meaning as describing individual or family residences. It has accordingly been held that the tax is applicable to pool or billiard tables and bowling alleys in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc.

It seems scarcely necessary to state that under the law as it now stands the fact that the use of amusement equipment is restricted to a certain class and is not open to the public is no ground for exemption.

Respectfully,

W. H. Osborn,
Commissioner of Internal Revenue.

Hon. ——— ———.

(T. D. 2463.)

Islands acquired from Denmark.

An act to provide a temporary government for the West Indian Islands acquired by the United States from Denmark by the convention entered into between said countries on August 4, 1916, and ratified by the Senate of the United States on September 7, 1916.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., March 24, 1917.

The appended extract of an act of Congress to provide a temporary government for the West Indian Islands, acquired by the United States from Denmark, approved March 3, 1917, is published for the information of internal-revenue officers and others concerned.

David A. Gates,
Acting Commissioner of Internal Revenue.

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* * * * * * *

SEC. 3. That on and after the passage of this act there shall be levied, collected, and paid upon all articles coming into the United States or its possessions, from the West Indian Islands ceded to the United States by Denmark, the rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided*, That all articles, the growth or product of, or manufactured in such islands from materials the growth or product of such islands or of the United States, or of both, or which do not contain foreign materials to the value of more than twenty per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from such islands shall hereafter be admitted free of duty.

SEC. 4. That until Congress shall otherwise provide all laws now imposing taxes in the said West Indian Islands, including the customs laws and regulations, shall, in so far as compatible with the changed sovereignty and not otherwise herein provided, continue in force and effect, except that articles the growth, product, or manufacture of the United States shall be admitted there free of duty: *Provided*, That upon exportation of sugar to any foreign country, or the shipment thereof to the United States or any of its possessions, there shall be levied, collected, and paid thereon an export duty of $8 per ton of two thousand pounds irrespective of polariscope test, in lieu of any export tax now required by law.

SEC. 5. That the duties and taxes collected in pursuance of this act shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of said islands under such rules and regulations as the President may prescribe.

* * * * * * *

(T. D. 2464.)

Form 108 abolished.

Discontinuance of collector's monthly report of spirits gauged.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 23, 1917.

To collectors of internal revenue and others concerned:

Form 108 is hereby abolished and hereafter Form 109, rendered monthly by gaugers, will be filed with the retained Form 150 in collectors' offices.

Before the monthly bill on Form 150 of a gauger who is compensated on a fee basis is paid a verification should be made in the collector's office of the gallons reported on Form 150 to see that such report is correct. This should be ascertained by checking Form 59, gauger's daily report, with the amounts reported on the gauger's consolidated statement of spirits gauged each day, Form 109.

Revenue agents on accounts, in making examination of collectors' offices, should verify from time to time the gallons gauged as shown

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by Form 160 with Form 59 and Form 109, and where any discrepancies appear report should be made to this office.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2465.)

Denatured alcohol.

Formula No. 27 for special denaturation of alcohol for use in manufacture of soap liniment, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 24, 1917.

SIR: Referring further to your letter of the 10th ultimo, submitting the following proposed formula as a special denaturant for alcohol, to be used exclusively in the preparation of soap liniment, chloroform liniment, and liquid and green soap, in accordance with the specifications and regulations set forth in the United States Pharmacopœia: Alcohol, 100 gallons; oil of rosemary, 1 gallon; camphor, 30 pounds, you are informed that liquid soap does not appear as such in the pharmacopœia. There is a liniment of soft soap, but the liniment of soft soap and the green soap could not be made in accordance with such specifications if you used denatured alcohol, as you requested. It has been decided, however, to grant the use of alcohol, denatured as above, for use in the manufacture of soap liniment (U. S. P.), chloroform liniment (U. S. P.), liniment of soft soap, and green soap when manufactured in accordance with the standards of the United States Pharmacopœia, with the exception that the products will contain camphor and rosemary. The denaturant may be used only in a central distilling and denaturing plant of an industrial character, established under subsection 2 of paragraph N of section 4 of the act of October 3, 1913, and supplement No. 2 to regulations No. 30.

Samples of the liniment of soft soap and green soap to be manufactured are to be submitted, together with the formula, in each instance before the bond is approved.

Permission for the use of special denaturants at central distilling and denaturing plants of the character named herein must be obtained from this office, as provided in articles 2 and 19 of the supplement above mentioned.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2466.)

Alcoholic liquors—Alaska.

Extracts from the act of February 14, 1917, prohibiting the manufacture and sale of alcoholic liquors in the Territory of Alaska.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 27, 1917.

The appended extracts from an act of Congress relative to prohibition in Alaska, approved February 14, 1917, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

SECTION 1. * * * That on and after the first day of January, anno Domini nineteen hundred and eighteen, it shall be unlawful for any person, house, association, firm, company, club, or corporation, his, its, or their agents, officers, clerks, or servants to manufacture, sell, give, or otherwise dispose of any intoxicating liquor or alcohol of any kind in the Territory of Alaska, or to have in his or its possession or to transport any intoxicating liquor or alcohol in the Territory of Alaska unless the same was procured and is so possessed and transported as hereinafter provided.

Whenever the term "liquor," "intoxicating liquor," or "intoxicating liquors" is used in this act it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, ethyl alcohol, and all malt liquors, including all alcoholic compounds classed by the United States Internal Revenue Bureau as "compound liquors": *Provided*, That this act shall not apply to methyl or wood alcohol.

That any person or persons, or any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, who shall, directly or indirectly, violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000 or shall be imprisoned for a period of not more than one year, or by both such fine and imprisonment.

* * * * * * *

SEC. 7. That all express companies, railroad companies, public or private carriers are hereby required to keep a separate book, in which shall be entered, immediately upon receipt thereof, the name of the person to whom pure alcohol is shipped, from what city or town and State the same was shipped, and the name of the shipper, the amount and kind received, the date when received, the date when delivered, and to whom delivered, after which record there shall be a blank space in which the consignee shall be required to sign his own name, in ink, before such pure alcohol is delivered to such consignee, which book shall be open to the inspection of the public at any time during business hours of the company and shall not be removed from the place where the same is required to be kept. A copy of entries upon any such record herein provided to be kept, when certified to by the agent of any express or railroad company or any public or private carrier in charge of the same, shall constitute prima facie evidence of the facts therein stated in any court of the Territory.

It shall be unlawful for any person, house, association, firm, company, club, or corporation, his, its, or their agents, officers, clerks, or servants, to ship alco-

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hol or intoxicating liquor to a false or fictitious name or person, or any person to receive or receipt for alcohol or intoxicating liquor in a false or fictitious name.

* * * * * * *

SEC. 26. That the issuance by the United States of any internal revenue special tax stamp or receipt to any person as a dealer in intoxicating liquors shall be prima facie evidence of the sale of intoxicating liquors by such person during the time the stamp or receipt is in force and effect.

A copy of such stamp or receipt or of the record of the issuance thereof, certified to by a United States internal-revenue officer having charge of such record, is admissible as evidence in like case and with like effect as the original stamp or receipt.

SEC. 27. That it shall be the duty of the governor of Alaska, the United States marshals and their deputies, mayors, and members of town councils, town marshals, and police officers of all incorporated towns in Alaska, all Federal game wardens, agents of the Bureau of Fisheries and Forestry Service, customs collectors and their deputies, employees of the Bureau of Education, prosecuting attorneys and their deputies, and all other Federal and Territorial executive officers to enforce the provisions of this act.

* * * * * * *

(T. D. 2467.)

Capital-stock tax.

Paragraph 2 of T. D. 2417 of December 16, 1916, amended.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 27, 1917.

To collectors of internal revenue:

The ruling published in paragraph 2 of T. D. 2417, of December 16, 1916, is hereby amended and corrected to read as follows:

Any surplus or undivided profits of a foreign corporation that are invested in United States bonds or other securities having no connection whatever with the actual business of the corporation transacted in this country may be stated on the return, Form 708, under item 3, but should not be included under item 1 as "capital invested in the United States."

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2468.)

Income tax.

Revision of monthly list return, Form 1012, and amending T. D. 1914 of December 9, 1913, accordingly.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 26, 1917.

To collectors of internal revenue:

Income-tax Forms 1012, 1012 A, 1012 B, 1012 C, and 1012 D, as provided by T. D. 1914 of December 9, 1913, and as required to be used prior to the date of this regulation, are hereby superseded and

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from and after the date of this regulation the monthly list return of normal income tax withheld from interest paid on bonds and mortgages or deeds of trust or other similar obligations of corporations, etc., shall be in the following form:

Form 1012. (Revised.)

TO BE FILLED IN BY INTERNAL REVENUE BUREAU.

File No.....

Audited by.....

UNITED STATES INTERNAL REVENUE.

MONTHLY LIST RETURN OF AMOUNT OF NORMAL INCOME TAX TO BE PAID AT THE SOURCE.

To be made in duplicate to the collector of internal revenue for the district in which the withholding agent is located, on or before the 20th day of each month following that for which this return is made, showing the names and addresses of persons who have received payments of interest upon bonds and mortgages, or deeds of trust, or other similar obligations of corporations, etc., on which the withholding agent is liable for the normal tax of 2 per cent.

_____
(Name of debtor organization.)

_____
(Full post-office address.)

_____
(Name of withholding agent.)

_____
(Full post-office address.)

(Above space to be stamped by collector, showing district and date received.)

(If debtor corporation makes its own withholding return, no entry need be made above on line provided for name of withholding agent.)

FOR MONTH OF _____, 19__ .

I certify that the following is a true and complete return of all normal tax amounting to $_____, required to be withheld and paid by the above debtor organization, with respect to all interest payments made during the month stated above, upon its bonds and mortgages, or deeds of trust, or other similar obligations; and that there are herewith inclosed all certificates * which were presented with coupons or with respect to interest orders.

To _____
Collector.
_____ District of _____

_____
(Address.)

Signed:

_____

_____
(Capacity in which acting.)

*List alphabetically below only certificates disclosing tax liability, but transmit all certificates with this return.

NOTE.—All substitute certificates of collecting agents, authorized by regulations, that are received by debtors or withholding agents will be considered the same as certificates of owners, and in entering same in making monthly list returns, debtors or withholding agents will enter the name, address, and the number of the substitute certificate of the collecting agent in lieu of the name and address of the owner of the bonds.

Name of payee.	Address in full.	Amount of income on which withholding agent is liable for tax.	Amount of tax liability.
.....	.....	$.....	$.....
.....	.....	.....	.....
.....	.....	.....	.....
(continue on Form 1012 A, revised, if necessary).....		.....	.....

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While certificates are required to be listed alphabetically where the volume of business is sufficiently large to require or make advisable a daily listing of certificates, in all such cases alphabetical listing will not be insisted upon, but all certificates must be packed and forwarded to this office in the order in which listed.

Where an extension sheet is required it shall be in the following form:

UNITED STATES INTERNAL REVENUE.

CONTINUATION SHEET—FORM 1012 A—(REVISED).

Name of payee.	Address in full.	Amount of income on which withholding agent is liable for tax.	Amount of tax liability.
Totals brought forward...	.....	$.....	$.....
.....	.....	.....	.....
.....	.....	.....	.....
Totals carried forward.....		.....	.....

Return on this form shall be made monthly on or before the 20th day of the month for income tax withheld in the preceding month.

The use of Forms 1012 A, 1012 B, 1012 C, and 1012 D is discontinued.

A summary of monthly list returns as herein provided and made during a calendar year will be listed on income-tax Form 1013, and this annual list will be filed with the collector of internal revenue on or before March 1 of each year and will constitute the annual withholding return of debtor corporations or their withholding agents for normal income tax withheld from interest paid on bonds and mortgages or deeds of trust or other similar obligations of corporations, etc.

This return shall be printed on white paper, on sheets in size 16 by 10½ inches, and shall be printed to read along the 10½-inch dimension, with horizontal and column lines and headings as shown by the form herein provided. These forms will be furnished by the Government.

Monthly list returns made on forms in use prior to the date of this regulation will be accepted by the Government up to and including April 20, 1917, but all monthly list returns for April and subsequent months shall be made on the form here prescribed.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2469.)

Domestic wines.

Use of sugar solution in the treatment of must or wine to correct natural deficiencies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 28, 1917.

Under the provisions of section 401 of the act of September 8, 1916, the addition of sugar solution to the must or wine to correct natural deficiencies is authorized "when such addition shall not increase the volume of the resultant product more than 35 per cent and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than 13 per cent of alcohol after complete fermentation."

The following table, based on the acid content and the "resultant product" of such ameliorated wine, shows the number of gallons of water that may be added to each thousand gallons of must or wine. The table of allowances published in Regulations No. 28, supplement No. 2, of September, 1916, is hereby amended accordingly.

Parts per mille fixed acid.	Gallons of wine.	Gallons of sugar water allowed.	Parts per mille fixed acid.	Gallons of wine.	Gallons of sugar water allowed.
5.1	1,000	20.0	6.5	1,000	300.0
5.2	1,000	40.0	6.6	1,000	320.0
5.3	1,000	60.0	6.7	1,000	340.0
5.4	1,000	80.0	6.8	1,000	360.0
5.5	1,000	100.0	6.9	1,000	380.0
5.6	1,000	120.0	7.0	1,000	400.0
5.7	1,000	140.0	7.1	1,000	420.0
5.8	1,000	160.0	7.2	1,000	440.0
5.9	1,000	180.0	7.3	1,000	460.0
6.0	1,000	200.0	7.4	1,000	480.0
6.1	1,000	220.0	7.5	1,000	500.0
6.2	1,000	240.0	7.6	1,000	520.0
6.3	1,000	260.0	For all acidity over 7.6	1,000	538.4
6.4	1,000	280.0			

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2470.)

Domestic wines.

Use of sugar solution in production of wines, and storage of tax-paid wines on bonded premises.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 27, 1917.

To collectors of internal revenue and others concerned:

In defining natural wines, section 401 of the act provides that in the production of such wines there may be added, under the supervision of a gauger—

[1] A solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than ninety-five per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than thirty-five per centum, and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than thirteen per centum of alcohol after complete fermentation. * * * *And provided further*, That wine as defined in this section may be sweetened with cane sugar or pure condensed grape must and fortified under the provisions of this act, and wines so sweetened and fortified shall be considered sweet wine within the meaning of this act.

Section 402 (subsection 43) of the act relating to the fortification of "pure sweet wine," provides—

That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar containing, respectively, not less than ninety-five per centum of actual sugar, calculated on a dry basis, * * * to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification herein provided for * * * or for the purpose of perfecting sweet wines according to commercial standards * * * shall not be excluded by the definition of pure sweet wines aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar added for sweetening purposes shall not be in excess of eleven per centum of the weight of the wine to be fortified * * *.

As construed by this office, the *wine maker* under the provision of section 401 may, for the purpose of correcting "natural deficiencies" in the must or wine, use sugar solution not exceeding the quantity limited by that section. Where wines so treated are to be fortified under the provisions of section 402 of the act, the use of sugar or condensed grape must is also permissible, subject to the limitations imposed in that section. In either case referred to the use of sugar solution, sugar, or condensed must must be under the supervision of a gauger.

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After wine has been so treated and fortified, the same will be sweet wine within the meaning of the act. But where in the subsequent cellar treatment of such wine additional sugar is needed to perfect such wine according to commercial standards, the same may be added (if before removal from the winery or other bonded premises) without rendering the wine makers or bonded dealers liable to special tax as a rectifier.

The use of sugar or rock-candy sirup in the treatment of champagne wines, after such wines have been bottled, will be permitted without supervision of a gauger, in view of the small quantity used for such purposes, and the difficulty that may be experienced in securing the immediate services of a gauger when needed for this purpose. The making of champagne or other sparkling wines, however, must be carried on at the winery where such wines are produced or blended, and the manufacture of artificially carbonated wine must be done on either the winery premises or other bonded premises.

Wine makers and proprietors of bonded premises established under the act named, in blending or otherwise treating wines for the purpose of perfecting them according to commercial standards, will not thereby incur special-tax liability as rectifiers, as such blending, etc., is regarded as cellar treatment authorized by that act.

Regarding the storage of tax-paid wines on bonded premises and in buildings or rooms where tax-paid spirits are stored this office now holds that such tax-paid wines may be *temporarily* stored for bottling or shipment in a room specially set apart for that purpose, although connected with rooms in which untax-paid wines are stored. Under no circumstances, however, should both tax-paid and untax-paid wines be stored in the same room.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2471.)

Fermented liquors.

Revision of Forms 7 and 18, records 19 and 20, to be discontinued.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., April 2, 1917.

To collectors of internal revenue:

Form 7 (order for stamps—fermented liquor) and Form 18 (brewer's monthly return) have been revised and the revised forms

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will be used to the exclusion of all former editions on and after July 1 next. A moderate supply of the revised forms will be forwarded to collectors in time for distribution before July 1, after which date all blank Forms 7 and 18 of former editions should be destroyed, brewers being given to understand that the old forms will not be accepted after that date.

Form 18 is the same as heretofore in substance, with the exception that details in the stamp account and in the fermented-liquor account are carried forward from month to month so as to represent the aggregate transactions for the year to the close of the current month. The method of arrangement has been changed somewhat and is believed to have been made more logical. Provision has been made for reporting the quantity of nontaxable beverages sold. The return will be in duplicate, as heretofore, as required by law, and the general provisions of the law and regulations relating to Form 18 will be observed.

Commencing with July 1 next, the collector's copy of Form 18 will be filed in a loose-leaf binder, alphabetically, by name of brewer, thus constituting an original record of each month's transactions by each brewer and taking the place of record 20, the keeping of which on and after July 1 next will be discontinued. The binders in sufficient numbers will be furnished collectors in time for installing the new system, and subsequently additional binders when needed on requisition to this office.

Commencing with July 1 next the revised Form 7 will be filed in collectors' offices in check-size drawers behind guide cards bearing the name of each brewer, forming an original record of orders for stamps for fermented liquors, and taking the place of record 19, the keeping of which on and after July 1 will be discontinued. In connection with the filing of Form 7, two sets of guides should be used, providing a current and a closed file, the current file to contain stamp orders held to be checked with the monthly returns, Form 18. The procedure to be used in handling the stamp-order forms should conform as nearly as practicable to the instructions given in mimeograph 1451 relating to stamp-order Forms 168, 172, etc.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

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(T. D. 2472.)

Distilled spirits in bonded warehouse.

Excessive losses of distilled spirits in bonded warehouse—Revising Circular No. 625, as published in T. D. 2409 of December 9, 1916.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 2, 1917.

To collectors of internal revenue and others concerned:

Section 4, act of May 28, 1880, provides:

> If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package hereafter deposited in a distillery warehouse, other than the loss provided for in section thirty-two hundred and twenty-one of the Revised Statutes of the United States, as amended, which, in the opinion of the Commissioner of Internal Revenue, is excessive, he may instruct the collector of the district in which the loss has occurred to require the withdrawal from warehouse of such distilled spirits, and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into the warehouse in such cask or package has not expired.

A like provision is made in section 58 of the act of August 28, 1894, as to spirits deposited in general bonded warehouses or in special bonded warehouses.

In view of the loss allowance provided in section 50, act of August 28, 1894, as amended, and the large excessive losses frequently discovered on a special regauge of packages in warehouses, collectors will hereafter require the immediate withdrawal of all packages showing, on regauge, a loss of 25 per cent or more over the statutory allowance where such excessive loss exceeds 1 proof gallon.

Packages showing a loss not exceeding 25 per cent over the maximum statutory allowance, and which have remained in warehouse less than four years, will be permitted to remain in warehouse until the spirits therein contained are eligible for bottling in bond, namely, four years from date of original gauge, provided the statutory allowance ascertained at the time such special regauge is made is accepted by the distiller as the final allowance to be made on the withdrawal of the packages from the warehouse, and is so noted on Form 381, to be at once filed by him in duplicate.

The retention in warehouse of such deficient packages will not be permitted, however, where the condition of the warehouse or the cooperage of the packages in the warehouse is such as indicates a want of proper care on the part of the distiller in preventing un-

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necessary loss or wastage, or where the loss is of such extent as will materially affect the tax security afforded by the lien imposed by section 3251, Revised Statutes.

It will be the duty of the internal-revenue agents to frequently visit distillery warehouses and other bonded warehouses in their respective divisions for the purpose of ascertaining the condition of the cooperage and any excessive loss of spirits, and they will, if the condition of the packages seems to warrant, make a careful gauge of all packages indicating excessive loss and report the result of their inspection to this office. In this connection the attention of revenue agents is also called to T. D. 2405 of December 1, 1916, on the subject of equalizing and undergauging distilled spirits.

Collectors will see that a copy of this Treasury decision is furnished to each distiller in their respective districts.

W. H. Osborn,
Commissioner of Internal Revenue.

(T. D. 2473.)

Distilled spirits for export.

Complete data as to each package to be reported in Form 59 upon withdrawal of distilled spirits for export.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., April 2, 1917.

To collectors of internal revenue and others concerned:

In making up Form 59, reporting distilled spirits withdrawn from warehouse for export upon original gauge, gaugers will hereafter enter in the proper columns complete data as to each package appearing in the Forms 59 reporting the entry gauge. The various details, including the gross weight, tare, proof, etc., must be stated in order that the customs officers may have this information when inspecting the packages at the port of export.

When distilled spirits are shipped for export in cars sealed with "U. S. C. in bond" seals, in accordance with T. D. 36139, dated February 7, 1916 the gauger will prepare a separate Form 59 for the packages shipped in each car, noting in the report the car number, together with the serial numbers of the seals affixed to the car.

The serial numbers of the seals will also be stated in Form 206, together with the serial numbers of the packages in the space provided at the bottom of the indorsement side of the form.

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The bills of lading for each car will also be required to have the seal numbers noted thereon.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2474.)

Domestic wines.

Where domestic tax-paid wines are shipped in tank cars the bill of lading and stamps affixed thereto to be forwarded to the Commissioner of Internal Revenue.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 4, 1917.

To collectors of internal revenue and others concerned:

Article 15 of regulations 28, supplement No. 2, relating to the shipment of tax-paid wines in tank cars is hereby amended as follows:

In case of shipment of tax-paid wines in tank cars, *uncanceled* stamps of the required denomination must be affixed to the copy of the bill of lading, which bill of lading and uncanceled stamps will be at once filed with the collector of the district from which such wines are shipped. The bill of lading and uncanceled stamps will then be checked with the wine maker's or dealer's monthly statement (Forms 701 and 702), and will be forwarded by the collector, *by registered mail*, to the Commissioner of Internal Revenue.

For such shipments the label to be affixed to the car will, in addition to the prescribed marks, contain the words "*tax paid.*"

Hereafter all wines shipped in tank cars, whether in bond or tax paid, will be reported as separate items on Form 701 or 702, as the case may be.

Bills of lading heretofore filed with canceled or uncanceled wine stamps will be at once forwarded by collectors to the Commissioner of Internal Revenue.

The changes in the above regulations respecting the mode of procedure in case of shipment of tax-paid wines in tank cars are (1) in requiring *uncanceled* stamps to be furnished with the bills of lading; (2) in requiring such bills of lading and uncanceled stamps to be forwarded by collectors directly to the Commissioner of Internal Revenue; and (3) in requiring shipments in tank cars to be reported as separate items on Form 701 or 702.

Wines shipped to other than bonded premises on which the tax has not been paid by stamp will be seized and the shipper thereof will be prosecuted under the provisions of section 402 (par. f) of the act of September 8, 1916.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

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(T. D. 2475.)

Corporation excise tax—Act of August 5, 1909—Decision of court.

1. PUBLIC UTILITIES.

The fact that plaintiff was a public utilities corporation which, under the laws of the State, was not the owner of the property but merely intrusted with the use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, and the act making no exceptions in favor of public utilities.

2. MONEYS RECEIVED FROM CONSUMERS OF WATER FOR SERVICE CONNECTIONS AND PIPE EXTENSIONS.

Moneys so received for service connections and pipe extensions are not permitted to be deducted from the gross amount of the income, for they do not come within any of the permitted classes of deductions mentioned in the statute. Moneys so expended are invested in permanent improvements, which tend to enhance the rental and the market value of the water system. (238 Fed., 329.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 4, 1917.

The appended decision of the United States Circuit Court of Appeals in the case of the Union Hollywood Water Co. *v.* John P. Carter, collector, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

Union Hollywood Water Co., a corporation, plaintiff in error, v. *John P. Carter, collector of the United States internal revenue for the Sixth District of the State of California, defendant in error. No. 2837.*

Before GILBERT, MORROW, and HUNT, Circuit Judges.

GILBERT, Circuit Judge: The plaintiff in error, a corporation, having paid under protest certain taxes under the act of August 5, 1909, section 38, for the years 1912 and 1913, brought an action in two counts to recover the sums so paid. The facts and the questions involved are the same in the two counts, and it will be sufficient to refer only to the first.

It is alleged therein that the plaintiff in error, being a public utility corporation engaged in furnishing water for domestic use and irrigation, received in the year 1912 from consumers, to pay for service connections to be laid in public streets, the sum of $33,024.50, and that it expended in laying such service connections the sum of $31,006.12, that in the same year it received from property owners and persons engaged in the subdivision and sale of real estate, to pay for extensions of the water system to their property the sum of $52,895.65, and expended in laying such extensions in and through such property the sum of $51,235.12. Upon all of said sums so received for service connections and for the extension of the system into the lands of others, the plaintiff in error was required to pay a tax, although in its income-tax returns, while it had included those receipts in its gross income, it had claimed a credit and deduction

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for the amount so expended by it for service connections and pipe extensions. The court below denied the right of the plaintiff in error to recover.

The plaintiff in error contends that the moneys so received from property owners were not "gains, profits, or income" within the meaning of the statute; that they were moneys contributed solely for the purposes deignated, and for the benefit of the contributors of the same, and were not subject to distribution among the stockholders of the corporation as dividends or otherwise, and could be used only for the specific purposes for which they were contributed; that while the effect of the connections and extensions was to increase the plaintiff in error's plant, it was not to increase its gains, profits, or income.

The question so presented does not seem to have been considered in any reported case. The statute provides that for the determination of the amount of the annual excise tax, which is fixed as the equivalent of 1 per cent of the net income above $5,000, the net income shall be ascertained by deducting from "the gross amount of the income of such corporation * * * received within the year from all sources": (1) Its expense of operation paid out of income; (2) its losses, including a reasonable allowance for the depreciation of its property; (3) certain interest paid by it; (4) taxes paid by it; and (5) dividends on stock of corporations subject to the excise tax. The plaintiff in error being a public utility corporation, we may assume that in the ordinary course of its business its income consisted principally of the sums paid to it by consumers for the use of water furnished by it. But it may also have other income, and we are of the opinion that contributions paid by consumers of water or owners of land tracts for service connections and pipe extensions are income within the meaning of the act. Such contributions are moneys which come to the corporation in the ordinary course of its business, and they are properly included in a statement of its gross income "received within the year from all sources," and the corporation is liable to pay a tax thereon, notwithstanding that all or nearly all of the sum so received may have been expended within the year in betterments and the extension of its system.

Moneys so received for service connections and pipe extensions are not permitted to be deducted from the gross amount of the income, for they do not come within any of the permitted classes of deductions mentioned in the statute. Moneys so expended are invested in permanent improvements which tend to enhance the rental and the market value of the water system. They are not in the nature of improvements made merely to facilitate the transaction of a growing business, the expenses of which have been held deductible as necessary expenses of the business in computing the taxable net income of the corporation. Connecticut Mutual Life Insurance Co. *v.* Eaton (218 Fed., 206).

The plaintiff in error claims that it should be distinguished from ordinary business corporations in that it is a public utility company, and under the laws of California it is not the owner of its plant and property devoted to public use in the sense of personal ownership, but is merely intrusted with the use thereof, which it must devote to the public. But we are unable to see in that fact any ground for holding that it is not subject to the plain provisions of the statute. It is still a corporation "organized for profit and having a capital stock represented by shares." It does not deny that it is subject under the law to pay an excise tax. If so, it is subject to pay the whole of the tax, and it is to be dealt with precisely as any other corporation. The statute makes no exception in favor of public utility corporations.

Nor do we think that a different conclusion should be reached because of the fact that the Railroad Commission of California has decided that meters and service connections paid for by consumers are not to be included in the valuation of the water company's plant upon which it is entitled to earn a fair return. City of Eagle Rock Rock Water Co. (3 C. R. C., 1054); in the matter of the application of the l Valley Water Co. (8 C. R. C., 481). In the latter of these cases the com- d:

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Although these pipes were expressly donated to the company, they are not the property of the water company, and as such the company is entitled to a return on their fair value. On the other hand, the use value is not measured by an estimate of cost, for there are a number of these pipe lines that have only one consumer for a large investment, and it is obviously unfair to permit it to become a burden upon the remainder of the system.

It does not follow from these decisions of the California commission that moneys contributed for service connections must not be regarded as income, gains, or profits for the purpose of determining the amount of the excise tax under the law of the United States. In Stratton's Independence *v.* Howbert (231 U. S., 400, 417) the court said:

Evidently Congress adopted the income as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the Government.

The court further said

Moreover, Congress evidently intended to adopt a measure of the tax that should be easy of ascertainment and simply and readily applied in practice.

And further observed:

It was reasonable that Congress should fix upon gross income, without distinction as to source, as a convenient and sufficiently accurate index of the importance of the business transacted.

And from this point of view it makes little difference that the income may arise from a business that theoretically or practically involves a wasting of capital.

The judgment is affirmed.

(T. D. 2476.)

Income tax.

Extending provisions of T. D. 2445 of February 12, 1917, which granted an extension of time in which to file returns of income for 1916 by nonresident alien individuals and corporations and American citizens residing or traveling abroad.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE.
Washington, D. C., April 5, 1917.

To collectors of internal revenue:

The provisions of T. D. 2445 of February 12, 1917 (extending "to include May 1, 1917." the time in which nonresident alien individuals and corporations and American citizens residing or traveling abroad may make returns of income for 1916) are hereby extended to include September 1. 1917.

In all such cases there is required to be attached to the return a statement of the reasons for the delay, and if an extension of time beyond September 1, 1917, shall be necessary, it is required that an application be made in each particular case, with a statement for the reasons for the request

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2477.)

Estate tax

Property passing under general power of appointment is taxable as a portion of the gross estate of the decedent appointor.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 7, 1917.

To collectors of internal revenue:

It is held that where a decedent exercises a general power of appointment as donee under the will of a prior decedent the property so passing is a portion of the gross estate of the decedent appointor. See Brandies *v.* Cochrane (112 U. S., 344, 352); Olney *v.* Balch (154 Mass., 318); Clapp *v.* Ingraham (126 Mass., 200); Rogers *v.* Hinton (62 N. C., 101); Tompson *v.* Towne (2 Vern., 319); Bainton *v.* Ward (2 Atk., 172).

When property is transferred by a special or limited power of appointment, the question of taxability will depend upon the terms of the instrument by which the donee of the power—the appointor—acts. The facts in every such case should be reported fully to the commissioner in order that decision as to tax liability may be made.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2478.)

Form 712—Application for permit to remove tobacco, etc.

Printed form of application for permit to remove tobacco, etc., adopted for use of manufacturers of tobacco, snuff, cigars, and cigarettes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 9, 1917.

To collectors of internal revenue:

For the sake of securing uniformity in size and style of applications of manufacturers of cigars and tobacco for permits to remove tobacco, etc., from their factories for transfer to another manufacturer or return to a dealer in leaf tobacco and to permit these applications to be properly filed in collectors' offices, printed Form 712, application for permit to remove tobacco, etc., has been adopted Requisition should be made by each collector upon this office for a supply of the new form, and immediately upon receipt of same collectors should distribute said form economically to the manufacturers of cigars and tobacco in their respective districts who require them. Each manufacturer of tobacco and cigars should be instructed that hereafter

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applications for permits to remove tobacco, etc., must be made on Form 712.

Manufacturers of tobacco and cigars should be instructed that Form 712 must be legibly and accurately filled in, and that in case unstemmed or stemmed leaf tobacco or stems are shipped or delivered to a dealer in leaf tobacco, the abbreviation "D. L. T." should be indicated in the proper place in the application.

Extra copies of this decision will be printed and forwarded to collectors for distribution to the manufacturers of tobacco, snuff, cigars, and cigarettes in their respective districts.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2479.)

Narcotic law.

Revoking ruling contained in T. D. 2194 of April 26, 1915, holding synthetic substitutes subject to the provisions of the act of December 17, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 10, 1917.

To collectors of internal revenue and others concerned:

The ruling contained in T. D. 2194 of April 26, 1915, holding synthetic substitutes subject to the provisions of the act of December 17, 1914, and requiring manufacturers of, dealers in, and physicians prescribing any such substitutes as therein defined to register and otherwise conform to the Harrison narcotic law and the regulations issued thereunder is hereby revoked, to take effect this date.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2480.)

Bottling of distilled spirits in bond.

Spirits removed to bottling houses to be immediately bottled, cased, and removed from the premises.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 5, 1917.

To collectors of internal revenue and others concerned:

It has been brought to the attention of this office that certain distillers remove spirits to their bottling house, dump, refilter, and carry

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the same in the bottling tank for a much longer period than is contemplated by the law and regulations, bottling only a sufficient number of cases each day to meet the demands of their trade.

As this practice necessitates the presence of an officer at the bottling house each day, it will be hereafter understood by the collector and distiller that the contents of each bottling tank must be immediately bottled, cased, and removed from the premises, thus reducing the cost of supervision to a minimum. In this connection it will also be understood that one day will be considered sufficient time within which to bottle the contents of each tank, unless the distiller is filling bottles less than 1 quart in capacity, in which case the time consumed in such process may be extended, but in no case to exceed three consecutive days.

Collectors will be expected to see that these instructions are properly carried out.

W. H. Osborn,
Commissioner of Internal Revenue.

(T. D. 2481.)

Income tax.

Reserves for depreciation and depletion constitute proper deductions from gross income, if reasonable, and not to be disallowed if converted into other forms of assets.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., April 10, 1917.

To collectors of internal revenue and internal-revenue agents:

The "second" paragraph under section 12 of Title I of the act of September 8, 1916, authorizes corporations, joint-stock companies, etc., in making their returns of annual net income, to deduct from gross income "all losses actually sustained and *charged off* within the year, * * * including a reasonable allowance for the exhaustion, wear, and tear of property, arising out of its use or employment in the business or trade," and in the case of oil and gas wells and mines a reasonable allowance for depletion of natural deposits.

The essential requirements of this provision are that the amount deductible on account of depreciation and depletion shall be charged off and shall be reasonable allowances; that is, an amount sufficient to make good the loss due to these causes. The phrase "charged off" contemplates that the "reasonable allowance" deducted from gross income on account of depreciation or depletion shall be credited to appropriate reserve accounts and carried as a liability against the assets, to the end that when the total of these credits equals the capital investment account no further deductions on these accounts will be allowed.

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While the presumption is that amounts credited to these accounts will be used to make good the loss sustained, either through a renewal or replacement of the property or a return of capital, there is no requirement of law that the funds represented by these reserve liabilities shall be held intact or remain idle against the day when they may be used in making good the depreciation of the property with respect to which the deduction is claimed or in restoring the capital invested in the depleted assets.

The conversion of the depreciation reserve into tangible assets will not constitute such a diversion as would deny the corporation the right of deduction, provided in all cases that the deduction claimed in the return is a reasonable allowance; that is, a fair measure of the loss due to "exhaustion, wear, and tear of property growing out of its use" and is charged off or so entered upon the books as to constitute a liability against the assets with respect to which the depreciation deduction is claimed.

To the extent that articles 130, 132, and 133 of regulations No. 33 are in conflict with the foregoing they are hereby rescinded, and this decision is made applicable to the adjustment of returns of annual net income made pursuant to the requirements of section 38 of the act of August 5, 1909, section 2 of the act of October 3, 1913, and the present income-tax law, except that as to returns made under the first two acts the writing off of depreciation, if reasonable in amount, will not be insisted upon.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2482.)

Collections on Porto Rican products.

Instructions relative to internal-revenue collections on Porto Rican products under the act of March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes."

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., April 12, 1917.

To collectors of internal revenue and depositaries of public moneys:

Section 9 of the act of March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes," reads as follows:

That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect

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in Porto Rico as in the United States, except the internal-revenue laws: *Provided, however*, That hereafter all taxes collected under the internal-revenue laws of the United States on articles produced in Porto Rico and transported to the United States or consumed in the island shall be covered into the treasury of Porto Rico.

In view of the requirements of this act the following instructions are issued relative to accounting for collections from the sale of stamps to be affixed to articles subject to internal-revenue tax received from Porto Rico as per notice on internal-revenue Form 471:

Effective May 1, 1917, the amount of such collections must be reported on the certificates of deposit in which included. The depositaries will note such amounts, from data furnished by collectors, by interlining above the line for "Ordinary" collections, as follows:

Porto Rican collections.....$.....
Ordinary .....

Collectors are instructed that on Form 22 for the month of March, 1917, in addition to the required report of Porto Rican collections, there should be given in a footnote under the caption "Porto Rican products, etc.," the part of such collections made on and after March 3, 1917.

On Forms 49 for the month of March, 1917, and thereafter the amount of such collections included in a certificate of deposit should be interlined in column 5 above the "Ordinary collections" and preceded by the initials "P. R.," and the sum of such entries interlined just above the "Total for the month" of the "Ordinary collections" and preceded by the initials "P. R." The sum of these two totals in column 5 and the "Totals for month," in columns 6 and 7, must equal the "Total for month" in column 4.

On Form 51B the amount of such collections should be interlined in red ink in column 3 and on Form 79 in the proper columns on line 3. Form 68 should be made to agree with Form 51B.

Forms 22, 49, 51B, and 68 must agree in reporting Porto Rican collections.

The reports herein required must be made to enable the department to carry out the provisions of the act of March 2, 1917, referred to above.

If reports on Forms 22, 49, 51B, and 68 for March and account on Form 79 for the March quarter have been rendered prior to the receipt of these instructions, collectors who received any Porto Rican collections on and after March 3, 1917, should render amended reports and accounts as per instructions contained herein.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2483.)

Estate tax.

Computation of dividends upon stock and interest upon bonds owned by decedent whose estate is taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 20, 1917.

SIR: Receipt is acknowledged of your letter of the 16th instant with regard to accrued income on stock in corporations owned by a decedent at the time of death, and in reply you are informed that there should be included in the gross estate the entire dividend declared prior to the day of death, whether received before or after that day. No part of a dividend declared after death should be included in the gross estate.

With regard to bonds, obviously a different rule applies and the actual interest accrued to the day of death must be returned as a portion of the gross estate.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2484.)

Denatured alcohol.

Temporarily extending the use of special formula 6-b for the purposes for which special formula 17 has heretofore been authorized and removing restrictions from formula 6-b.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 21, 1917.

GENTLEMEN: Receipt is acknowledged of your letter of the 13th instant, in which you state that you have endeavored, without success, for the past 12 months or more to buy in this country and abroad animal oil, the denaturant authorized for special formula No. 17, and suggesting the use of crude pyridine, such as is used in other formulas in lieu of the animal oil.

In reply you are informed that, in view of the circumstances set forth in your letter, the use of formula 6-b, containing pyridine as a denaturant heretofore restricted in use to factories operating in connection with either a distillery or central denaturing bonded warehouse, will be extended temporarily for those purposes for which special formula No. 17 has heretofore been authorized, and the restriction in respect to operating in connection with a distillery or central denaturing bonded warehouse is removed for the present.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

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(T. D. 2485.)

Return for registry—Form 277 revised.

Form 277, revised (return for registry of dealers in leaf tobacco, retail dealers in leaf tobacco, and peddlers of tobacco), to be used exclusively hereafter, commencing with returns for next fiscal year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 24, 1917.

To collectors of internal revenue:

Form 277, return for registry of manufacturers of tobacco, manufacturers of cigars, dealers in leaf tobacco, retail dealers in leaf tobacco, and peddlers of tobacco, when these occupations are not subject to special taxes (at present only the first two are), has been revised, and is now printed as a card form 5 by 8 inches in size. A supply of the new form has been forwarded each collector.

The latest revised Form 277 is to be used exclusively hereafter, commencing with returns for the fiscal year beginning July 1 next. All old blanks of Form 277 should be destroyed.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2486.)

Distilled spirits bottled in bond for export.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 21, 1917.

To collectors of internal revenue and others concerned:

Until further advised, so much of article 34, regulations No. 23, concerning bottling of distilled spirits in bond, which requires the name of the domestic port of clearance and the port of foreign destination to be marked on the cases of distilled spirits bottled in bond for export, is hereby waived.

Distillers will, however, be required to mark on the "Government side" of the cases the words, "For export from U. S. A.," as heretofore.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2487.)

Narcotic law.

Manufacturers authorized to furnish special agents and customs agents samples of narcotic drugs for the purpose of establishment of drawback under customs laws and regulations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 28, 1917.

To collectors of internal revenue and others concerned:

This office has been notified by the Customs Division that considerable difficulty has been encountered in securing samples of opium, coca leaves, their salts, derivatives, and preparations thereof manufactured out of imported materials from the manufacturers in this country for the purpose of making analyses to establish the allowance of drawback on such manufactured drugs exported from this country, owing to the fear on the part of such manufacturers of being charged with violation of the act of December 17, 1914, for furnishing the samples to these agents for this purpose.

As these agents are officers of the United States Government charged with certain specified duties in connection with importations and exportations under the customs laws and regulations, they are entitled to such samples necessary for the discharge of their official duties, and manufacturers may lawfully furnish to any duly accredited special agent or customs agent of the Treasury Department the required samples, taking the receipt of such officer therefor, which will be filed with their official narcotic order forms and records.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2488.)

Bottling of spirits in bond.

The underfilling of bottles or using undersized bottles prohibited.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 9, 1917.

To collectors of internal revenue:

Several instances have recently been brought to the attention of this office in which distillers engaged in bottling spirits in bond have

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used bottles having a less capacity, or containing a less quantity, than the designation of the bottles denoted, the stamp of the Government thus being made to show a quantity of spirits in such bottles in excess of the actual contents thereof.

You are accordingly advised that the practice of underfilling bottles or using undersized bottles will not be tolerated.

Paragraph 3, article 21, regulations No. 23, revised December 21, 1912, and so much of any circular or Treasury decision inconsistent herewith is hereby revoked.

While this office is informed that glass manufacturers will not contract to furnish bottles of exact size, such bottles must be furnished in sufficient capacity that when filled they will contain, as to quarts, not less than 32 ounces, and other sizes in like proportion. Collectors will at once instruct the officer on duty at each bottling warehouse to insist upon a full compliance with the law and the regulation herein prescribed, and in case of noncompliance collectors will not only suspend the issue of stamps to the offending distiller but will take immediate measures for the enforcement of the for feiture of all such bottled spirits found on the distiller's premises.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2489.)

Narcotic law—Decision of court.

Refusal of writ of mandamus, directed to the Commissioner of Internal Revenue and Secretary of the Treasury of the United States, as not being the proper remedy to abrogate a regulation (T. D. 2309, dated March 11, 1916), issued under authority of the act of December 17, 1914, to carry into effect the provisions of section 6 of said act, which regulation was issued in the exercise of official discretion. Demurrer by relator to answer of respondent to rule to show cause overruled.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., May 11, 1917.

The appended decision of Covington, Chief Justice in the Supreme Court of the District of Columbia, in the case of United States ex rel. George B. Ashley *v.* William H. Osborn and W. G. McAdoo, is published for the information of internal-revenue officers and others concerned.

W. H. Osborn,
Commissioner of Internal Revenue.

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IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

United States ex rel. George V. Ashley, relator, v. *William H. Osborn and W. G. McAdoo, respondents.*

(At Law, No. 59555.)

This is a petition for a writ of mandamus, directed to the Commissioner of Internal Revenue and the Secretary of the Treasury of the United States, commanding them to abrogate and cancel T. D. 2309 and all other decisions or regulations in conflict with and in derogation of the act of Congress of December 17, 1914, commonly called and known as the "Harrison narcotic law," and commanding them also to make hereafter only such needful rules and regulations as may be necessary to carry the provisions of that act into effect. A rule to show cause was issued and the respondents have answered the rule. To this answer the relator demurred. The petition, answer, and demurrer have brought the proceeding to such issue that the question whether or not the relator is entitled to the mandamus as prayed for in the petition is squarely before the court for decision.

The petition states in substance that the relator, suffering from a serious cough, consulted professionally a regular practicing physician in the District of Columbia, who prescribed for him certain drugs to be used to alleviate the cough, and wrote the same out on one of his regular prescription blanks. That prescription was as follows:

Ammonium chloride, one dram; *morphine sulphate, one-fourth grain;* sirup of scillæ, one-half ounce; and sirup of pruni. virg., one and one-half ounces; dose, one teaspoonful every two hours.

The relator, it is alleged, then had the prescription filled at the store of a registered retail druggist of the District of Columbia, and thereafter took the medicine in the doses prescribed by the physician until the quantity prescribed for him was exhausted. He then went to the drug store from which he had purchased the original quantity of medicine prescribed for him by the physician and asked the druggist to refill the prescription. This the druggist declined to do, stating that he could not legally refill it because of the operation of T. D. 2309, relating to the Harrison narcotic law.

Section 6 of the Harrison narcotic law provides—

That the provisions of this act shall not be construed to apply to the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this act. The provisions of this act shall not apply to decocainized coca leaves, or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

Section 1 of that law provides, among other things—

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this act into effect.

In pursuance of section 1 of the law as just quoted, the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, issued on March 11, 1916, T. D. 2309, which is as follows:

Section 6 of the act of Congress approved December 17, 1914, does not apply to extemporaneous prescriptions unless written for a preparation or remedy as hereinafter defined. The exemptions in that section apply exclusively to ready-made preparations and remedies prepared in accordance with the United States Pharmacopœia,

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National Formulary, or other recognized or established formula. * * * Preparations and remedies within the intent of section 6 are hereby defined to be ready-made compound mixtures prepared in accordance with a recognized or established formula as indicated above, which contain not more than one of the enumerated drugs in a quantity not greater than that specified, together with other active medicinal drugs in sufficient proportion to confer upon such preparations or remedies valuable medicinal qualities other than possessed by the narcotic drugs if dispensed alone.

This decision, the relator alleges in his petition, has been issued by the respondents in contravention of law, in that it is not a regulation in harmony with and merely for the purpose of carrying into effect the provisions of the law, but is in fact a regulation clearly beyond the scope, power, and intent of the law. And the relator then alleges in his petition that by section 6 of the Harrison narcotic law he was entitled to have refilled as many times as might be necessary for medicinal purposes the doctor's prescription which was given to him as recited in the petition. And the relator then alleges that as the refusal to refill the same by the druggist to whom he applied was based upon the T. D. 2309, and that decision having been promulgated by the Commissioner of Internal Revenue and the Secretary of the Treasury contrary to the provisions of the Harrison narcotic law, and being an arbitrary abuse of the authority vested in them, the relator is entitled to have a writ of mandamus issue out of this court commanding the Commissioner of Internal Revenue and the Secretary of the Treasury to abrogate T. D. 2309 and hereafter to make only such needful regulations as may be necessary to carry the Harrison narcotic law into effect.

Before considering at all the validity of T. D. 2309 in connection with section 6 of the Harrison narcotic law, it is of first importance to determine whether or not the relator has actually such a private legal interest in the proper enforcement of the law as to give him the right to institute proceedings to secure such enforcement by the writ of mandamus.

A general duty to the public is not a special duty to the relator or a duty which he can require the performance of through resort to the courts. Every citizen and every taxpayer is interested in the enforcement of law, in the proper administration of law; but that general interest is not a private interest and is not sufficient to authorize a private citizen to institute mandamus proceedings to secure from the appropriate officials the legal administration of such law. The mere fact, therefore, that the relator desired to become a purchaser of a combination of a narcotic drug with other drugs and was refused them by a druggist because of the operation of T. D. 2309 would of itself give the relator no sufficient private interest to proceed by way of mandamus to compel the officials charged with the enforcement of the Harrison narcotic law to abrogate existing regulations preventing such sale and purchase, even if those regulations are so arbitrary and so in contravention of the law as to constitute an abuse of official authority.

But the relator contends that the "prescription" given to him by a regular practicing physician for a combination of a narcotic drug with other drugs in proportions permitted in "preparations and remedies" as specified in section 6 of the law operated to put him in possession of something in the nature of a property right, the interference with which gives him a peculiar and private interest in the proper enforcement of the law and enables him properly to institute these mandamus proceedings. But is his possession of a so-called "prescription" a property right? If so, it must be because the "prescription" is the formula of a "preparation or remedy" which does not contain more than the prohibited quantity of opium or other narcotic to the ounce of a preparation, within the meaning of section 6 of the narcotic law. His contention, therefore, resolves itself into the proposition that each time a physician, using his professional knowledge, evolves in his mind a particular combination of drugs that will benefit an immediate ailment of the patient, he creates a "preparation or remedy" within the ordinary acceptation of those terms in the drug trade. It seems to the court that such a contention is erroneous and would overturn the

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entire theory of the practice of medicine. The relator consulted a physician and presumably gave him a history of his case. The physician diagnosed his case and determined that the particular patient, the relator, with certain existing symptoms, needed a certain quantity and for certain dosages a combination of drugs which included a narcotic drug. The physician might have given his directions for the medicine for his patient, the relator, directly to the druggist verbally if he chose. The patient, the relator, acquired no property in the thing called the "prescription," and when he went a second time to the druggist to purchase the combination of drugs, including the narcotic drug, which the physician at a particular time prescribed for him to take in a given quantity, he was not in any different position from any one of the public who might have gone to the druggist to make the same sort of a purchase. The relator, therefore, has no private right involved which a court can undertake to enforce.

However, apart from the right of the relator to institute the present mandamus proceedings, it seems clear that the duty imposed upon the respondents in relation to the Harrison narcotic law to "*make all needful rules and regulations for carrying the provisions of this act into effect*" required in its performance the exercise of a high degree of judgment and discretion.

It is quite true that the law can not be amended by a regulation issued by the respondents in virtue of the power conferred upon them under section 1 of the law. The regulations must be in harmony with the law and in an appropriate proceeding a mere arbitrary and unwarranted exercise of power by the respondents might be held invalid by the court.

In this case, however, the respondents have acted. They have exercised their judgment and discretion, and they have acted under the power given them to provide the appropriate administrative details for enforcing the Harrison narcotic law, including, of course, section 6 of that law. The exercise of such a power certainly can not be said to be ministerial. In Field *v.* Clark (143 U. S., 694), the court said:

> The legislature can not delegate its power to make a law, but it can make a law to delegate a power to determine some fact or state of things upon which the law makes, or intends to make, its own action depend. To deny this would be to stop the wheels of government. There are many things upon which wise and useful legislation must depend which can not be known to the lawmaking powers and must, therefore, be a subject of inquiry and determination outside of the halls of legislation.

If the existing regulations were abrogated by judicial order, and new ones, proper in the judgment and discretion of the officials, were promulgated, and they did not suit the petitioner, he would be again before the court for another writ of mandamus to compel the respondents to abrogate the new regulations and to promulgate still others. The mere statement of that proposition shows that the relator seeks the review of an act of official discretion by the prerogative writ of mandamus.

In the case of United States *v.* Black (128 U. S., 40), it was said by the court, speaking through Justice Bradley:

> The court will not interfere by mandamus with the executive officers of the Government in the exercise of their ordinary official duties, *even where those duties require an interpretation of the law.*

In the case of Louisiana *v.* McAdoo (234 U. S., 627), the court said:

> There is a class of cases which hold that if a public officer be required by law to do a particular thing, not involving the exercise of either judgment or discretion, he may be required to do that thing upon application of one having a distinct legal interest in the doing of the act. Such an act would be ministerial only. But if the matter in respect to which the action of the official is sought is one in which the exercise of either judgment or discretion is required, the courts will refuse to substitute their judgment or discretion for that of the official intrusted by law with its execution. Interference in such a case would be to interfere with the ordinary functions of Government.

It is possible that in a case where T. D. 2309 as a regulation in relation to section 6 of the Harrison narcotic law is to be construed by a court the regulation may be found

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to be contrary to the law (although it is fair to say that it seems to this court to be in harmony with the law), but a proceeding to secure the writ of mandamus is certainly not the proper remedy. The court might compel the Commissioner of Internal Revenue and the Secretary of the Treasury to make regulations to enforce the act, if they had not acted, and if such were needed, but it can not command them to exercise their discretion in formulating those regulations in a particular manner.

The writ being refused for the reasons given, it is unnecessary to discuss the other contentions of the relator made at the oral argument and presented in his brief.

The demurrer is overruled.

(T. D. 2490.)

Estate tax.

Duties of corporations and their transfer agents, registers of bonds, and paying agents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 14, 1917.

To collectors of internal revenue and others concerned:

The duties under Title II of the revenue act of September 8, 1916, of corporate transfer agents, registers of bonds, and paying agents and of corporations performing for themselves the duties customarily performed by such agents are defined as follows:

(1) Where the transfer of stock or bonds or payment of dividends or interest theretofore the legal property of a decedent, whether a resident or a nonresident, is made to or upon the order of an executor or administrator acting under letters granted in the United States, Hawaii, or Alaska, the corporate agent or officer will not be required to file the 30-day notice, make return, or pay tax.

(2) The 30-day notice is required to be filed whenever a corporation, its transfer agent, register, or paying agent is called upon to make a transfer of stock or bonds, or to pay interest or dividends to any person succeeding in right thereto a stockholder or bondholder who, since September 8, 1916, has died domiciled outside the United States, Hawaii, or Alaska, unless such successor in interest is an executor or administrator of the nonresident decedent acting under letters granted within the United States, Hawaii, or Alaska.

(3) The 30-day notice will show the name and address at the time of death of the nonresident decedent, a description and valuation of the property to be transferred or paid, and the name, designation (executor or other), and address of the person to whom transfer or payment is made and will be signed by the proper officer or agent of the corporation. A form of notice to be known as Form 714 is in preparation and will be furnished collectors for distribution. In the meantime informal notice giving all the above required data must be filed.

(4) This notice must be filed for dividends declared prior to the day of death and for interest payable after death to the extent of the portion accrued to the day of death.

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(5) If this notice be filed as required either within 30 days from death or immediately upon receipt of the order for transfer or payment, the transfer or payment need not be postponed. The collector, immediately upon receipt of the notice, will communicate with the foreign executor or succeeding party in interest, advising of the requirements of the estate taxing act and furnishing blank Forms 706 for the making of the return. If, within the legal period, the tax is not paid, proceedings will be instituted under section 208 of the taxing act for the sale of the property and the satisfaction of the tax.

(6) In every case, immediately upon receipt of the 30-day notice herein referred to, the collector will notify the commissioner of the facts, so that from a record kept in the commissioner's office it may be determined whether property of the nonresident is located in more than one collection district, in which case the proper information and instructions will be communicated by the commissioner to the collector at Baltimore. It is essential that collectors comply promptly with this requirement, so that in every case the total estate within the United States and the true tax may be accurately determined.

(7) This regulation is promulgated in view of present international conditions, and is subject to revocation should it be demonstrated that the accommodation herein made to corporations and their agents results in insecurity of the revenue. This regulation is not to be construed in any degree as modifying the interpretation hitherto given by the department of the term "executor" as used in section 200 of the act of September 8, 1916.

(8) This regulation supplants former regulations affecting corporate transfer and paying agents and registers of corporate bonds only in so far as the specific terms of such former regulations are inconsistent herewith.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2491.)

Construction of fruit-brandy distilleries.

Installation of tanks and meters and assignment of officers to fruit-brandy distilleries.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 21, 1917.

To collectors of internal revenue and others concerned:

Paragraph G of section 402 of the act of Congress approved September 8, 1916, reads as follows:

That the Commissioner of Internal Revenue, by regulations to be approved by the Secretary of the Treasury, may require the use at each fruit distillery of such spirit

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meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient; and the said commissioner is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified such number of gaugers or storekeeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed $5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but not to exceed $2.50 per diem for said board bills.

In pursuance of the above section of the law quoted the following regulations are promulgated and must be complied with before the commencement of the next fruit-brandy distilling season beginning September 1, 1917.

CONSTRUCTION.

At each such distillery either metal or wooden seal-locked tanks must be installed for the reception of brandy and singlings where singlings are actually produced. If wooden tanks are installed for the purpose, they must be placed in a suitable room or building to be known as the brandy room or building. Such room or building must be of secure construction, with substantial floors, side walls, and roof of wood, brick, concrete, or other satisfactory material. The windows must be protected by iron bars securely and permanently anchored to the walls not more than 6 inches apart and three-fourths of an inch in diameter. The sash must be equipped with sash locks or other devices which shall effectually prevent the opening of the windows from the outside. The hinges of the doors must be secured by riveting or by carriage bolts with the nuts on the inside, and, in addition to the nuts, the ends of the bolts must be battered or riveted. Similar attachments must be provided for a hasp for a Government seal lock, and, if a staple is used, it should perforate the wood and be clinched on the inside. The designated place of deposit may be used as a brandy room if suitable and constructed as herein directed. The wooden tanks in such room, or metal tanks, which are not required to be placed in a room, must be equipped with floats, with counterweights and a proper scale to guard against overflow of the tanks and that Government officers may note the contents of same. The openings in the tanks for cords or wires for floats and counterweights must be no larger than are absolutely necessary to accommodate the cords or wires. Singling tanks must, however, be equipped with an accurate glass gauge (not floats) to enable the officer to ascertain and record in Book 25½ the quantity and proof each time singlings are doubled under his supervision. Singling tanks may be placed on scales if preferred by distillers.

The distillery must be so constructed that the brandy will pass through continuous closed stills, pipes, meters, try boxes, and low

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wine tanks from the time the vapors rise in the first still until deposited in the locked tank or tanks for the reception of the finished product. The construction must be such that no access can be had to the brandy or singlings by the distiller and so as to prevent their diversion.

All connection between stills and pipes, pipes and meters, pipes and pumps, pipes and try boxes, pipes and tanks, and all valves and stopcocks must be so secured either by riveting, brazing, or sealing with lead and wire seals as to effectually prevent disconnection thereof and consequent access to the brandy and singlings or the diversion of same. All connecting pipes for spirits must be of metal and of substantial thickness suitable for the purpose. All necessary openings affording access to the spirits must be provided with secure attachments for Government locks, the keys to which will be in the possession of the Government officer. A vent pipe of very small diameter will be allowed on the spirit pipe between the condenser and the meter, but the same must be elevated above the pipe to which attached a distance of 2 or 3 feet, and will be protected by a perforated cap soldered or brazed thereto, or be otherwise adequately protected.

The meter must be securely inclosed in a substantial wooden or metal box, the door of which must be protected by a Government seal lock, and will be located between the vent pipe and the try box or the try box and valves for separating singlings and brandy. The key to this lock will remain in the possession of the division deputy and not the gauger.

Try boxes are required and must be so constructed as to permit of the reading of the proof of the spirits, as well as the temperature, without unlocking the same, and such try boxes will be located between the meter and the tank receptacles for brandy and singlings.

All stills, worms, pipes, and tanks must be so constructed and arranged as to permit of ready examination of the exterior thereof and for this purpose the tanks for the reception of the brandy and singlings should be elevated on trestles or platforms not less than 18 inches. Worm tanks must be so constructed that the water may be drawn off and the interior examined.

The entire process, as far as practicable, should be by the application of heat and the flow of spirits by gravity.

Where it is necessary to return singlings for doubling there must be metal pipe connection between the singling tank and still in which the same are to be doubled, and there must be a seal-locked valve in said pipe at the singling tank, with the key in the possession of the Government officer, and the doubling must be done in his presence.

The Vai meter, made by ———, at ———, is hereby prescribed for use for the purpose in question, and, in addition to being inclosed or boxed in as herein required, the same must be sealed and secured by a Government lock. The meter, besides correctly recording in

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quarts and gallons or half-gallons and gallons the quantity of spirits passing through it, must be capable of retaining a sample of each unit of measure passing through it that the average proof of the brandy and singlings in the receptacles may be compared with such sample.

The meter box will remain constantly locked, with the key in the possession of the division deputy collector, except when it becomes necessary for him to set or readjust the meter. The gauger will not be furnished with a key to said box. The box inclosing the meter must be so constructed as to permit the gauger to read the state of the meter through a small glass panel or window opposite the dials and so as to permit him to obtain samples from the locked sample proof receptacle. The sample box must be of sufficient size to admit of a strict compliance with these regulations. Care must be taken to completely empty the sample box and brandy tank at each gauge.

Where, by reason of the number of stills or the construction, one meter is insufficient, the distiller will be required to install as many more as may be necessary. The meters prescribed must be provided, installed, and paid for by the distiller in each case.

The designated place of deposit must be provided and used as heretofore, with the exception only that wooden brandy and singling tanks may be put therein as hereby provided, the door to said room to bear a Government lock, with the key in the possession of the Government officer, where brandy will be stored after gauging, pending tax payment or removal to a special bonded warehouse, or otherwise disposed of under the existing law and regulations. A room in a dwelling house may not hereafter be used as a place of deposit for brandy and for tanks.

The pipes in such a distillery must be painted as follows: For brandy, black; singlings, blue; distilling material, red; and water and steam, white. A diagram must accompany the notice, Form 27½, correctly representing the distillery and showing all pipes in prescribed colors. Such diagram need not be drawn to scale and may be on one or more sheets of paper 8 by 10½ inches in size, each being duly signed by the distiller, his agent, or attorney. One or more sheets of the diagram should represent vertical sections of the distillery.

ASSIGNMENT AND COMPENSATION OF GAUGERS.

At those distilleries where the brandy is to be withdrawn and gauged daily for fortification or other purposes an officer will be constantly assigned, provided the quantity of spirits produced exceeds 100 gallons per day. At all other fruit-brandy distilleries the tanks for the reception of brandy and singlings must be of such size as to necessitate a visit by a Government officer for gauging and withdrawing the brandy not oftener than twice a month.

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Storekeeper-gaugers in the separate capacity of gaugers will be assigned for this service. Where the officer is to remain permanently at one place during the operations of the distillery his compensation will be by fees and not less than $3 nor more than $5 per day, with actual and necessary traveling expenses to and from his place of assignment. Where, however, such an officer is to have charge of a number of the smaller distilleries in much the same manner as a general storekeeper-gauger at grain distilleries, his compensation will be by fees which will be not less than $3 nor more than $5 per day, together with the actual and necessary traveling expenses, as well as board bills not exceeding $2.50 per day.

Recommendations for assignments will be made on Form 241, but no more officers will be assigned for the purpose than are absolutely necessary to safeguard the interests of the Government. Each officer will remain on duty performing any and all service throughout the working hours of the day.

DUTIES OF OFFICERS.

Any singlings which may be doubled under the supervision of the Government officer must be duly recorded both as to quantity and proof in record book 25½.

After gauging the brandy and singlings in the tanks the gauger will read or take the state of the meter and compare it with the last previous reading and also compare the average proof of the spirits in the tanks and sample box at the meter.

Any material difference in quantity or proof by actual gauge and shown by the meter should be reported to the collector and will call for an explanation. Unless the explanation is satisfactory assessment of the tax on the deficiency should be recommended.

The state of the meter must be noted on the record book 25½ at each reading by interlineation in red ink under the columns headed "Number of gallons" under "Brandy gauged," that proper comparison may be made at each subsequent reading.

If singlings are actually made and doubled, it is evident that they will be twice measured by the meter. The singlings for any period shown by record 25½ should, therefore, be deducted from the total spirits recorded by the meter for the same period of time to ascertain the true quantity of brandy for such period.

It will be understood that with the protection afforded by the tanks and meters and the construction prescribed there will appear to be but little opportunity for evasion of taxes, which collectors will bear in mind when recommending assignments.

Distillers will promptly make such alterations in their distilleries as may be necessary, that the same will be in conformity with these regulations. Those who fail or refuse to comply will not be permitted to operate.

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As the meters may not be ready for delivery by or before September 1, 1917, the changes herein required should be made before that date and meters installed as soon thereafter as available.

All regulations inconsistent herewith are hereby modified or revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2492.)

Cases for bottled-in-bond spirits.

Marks and brands imprinted or embossed on a loose sheet to be attached to Government side of case permitted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 28, 1917.

To collectors of internal revenue, internal-revenue agents, and others concerned:

The following letter of even date, addressed to the ——— Distilling Co. on the above-mentioned subject, is published for your information:

SIR: This office is in receipt of your letter of the 24th instant, referring to your recent call, and transmitting a sample corrugated pasteboard box to be used for casing bottled-in-bond spirits. It is noted that the marks and brands on the Government side of the case are first embossed or imprinted in black letters on a loose sheet of paper, which in turn is pasted to the Government side of the case.

In reply you are advised that this office will not interpose any objection to the use of the case in question, provided that a suitable paste or glue is used which will protect the loose sheet after the same has been attached to the case from the effects of moisture.

It must also be understood that the marks and brands (excepting the serial number of the case and the stencil of the storekeeper-gauger) will be either embossed or imprinted in black letters upon the loose sheet and not stenciled thereon.

If such cases are to be reused, the marks and brands thereon must be so removed or obliterated that it will not affect the proper remarking and branding of such cases.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Messrs. ——— ———.

A supply of this Treasury decision will be sent to collectors within a few days, and they will see that the interested distillers in their respective districts are furnished with a copy of the same.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

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(T. D. 2493.)

Capital-stock tax.

Subsidiary companies may compute the fair value of their total capital stock by apportionment of the fair value of the total capital stock of the parent corporation among the subsidiaries in proportion to the earnings derived by the parent corporation from each subsidiary during the preceding year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 22, 1917.

SIR: Referring to your personal call at this office on May 19 regarding the returns of capital-stock tax of the various subsidiaries of the ——— Railway Co., you are advised that the most equitable method of computing the fair value of the stock of these companies is by apportionment of the fair value of the total capital stock of the holding company, the ——— Railway Co., among the various subsidiaries, as suggested in T. D. 2423.

The fair value of the total capital stock of the parent corporation is generally computed under Case I or II on Form 707 from the prices listed on the exchange or actual sales, and therefore this amount may be divided among the subsidiaries in proportion to the earnings derived from each during the preceding year.

The following form is recommended in furnishing such information to this office:

(1) Fair value of total capital stock of the ——— (parent corporation) as shown by the capital-stock tax return on Form 707, filed with collector of internal revenue, —— district, State of ———..... $

(2) Net profits of parent corporation for preceding year ended ———, 191–, as shown by return of net income filed with collector of internal revenue, —— district, State of ———..... $

(3) List of subsidiary companies, with amounts of net profits derived by parent company from each during preceding year, and also list of other sources of income, such as actual operations, investments, or holdings in other companies. State what percentage such amounts are of the net profits of the parent corporation for the preceding year (item 2) and the fair value of the total capital stock of each subsidiary as computed by this method.

Name of company.	District and State in which Form 707 is filed.	I. Amount of net profits returned to parent corporation for year 191–.	II. Percentage of total profits.	III. Fair value of total capital stock of subsidiary.
			Per cent.	
.....	.....	$.....	.....	$.....
.....	.....	.....	.....	.....
Actual operations.....	.....	.....	.....	.....
Investments.....	.....	.....	.....	.....
Holdings of stock in other companies (giving list of such companies):				
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
Total.....	.....	.....	100	.....

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The "fair value of total capital stock of a subsidiary," stated in Column III, should be such percentage of the "fair value of the total capital stock" of the parent corporation (item 1) as the "net profits" returned by that subsidiary to the parent corporation (shown in Column I) is to the "net profits of the parent corporation" (item 2). For example:

X = Fair value of total capital stock of subsidiary.
$5,000,000 = Fair value of total capital stock of parent corporation (item 1).
$20,000 = Net profits returned by that subsidiary to parent corporation (Column I).
$500,000 = Net profits of parent corporation (item 2).
Therefore, X : : $5,000,000 : : $20,000 : $500,000.
X = $200,000, which is the fair value of total capital stock of the subsidiary.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Mr. ——— ———,
Assistant Comptroller,
——— *Railway Co.*

(T. D. 2494.)

Income tax act—Decision of court.

INCOME OF PERSONS DYING AFTER MARCH 1, 1913, AND PRIOR TO OCTOBER 3, 1913, LIABLE TO TAX.

The income of a person dying on July 22, 1913, is liable to tax. The tax is against citizens and residents of the United States personally.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 2, 1917.

The appended decision of the Circuit Court of Appeals, Second Circuit, in the case of Nicholas F. Brady et al. *v.* Charles W. Anderson, collector of internal revenue, is published for the information of internal-revenue officers and others concerned. The United States Supreme Court on May 21, 1917, refused to grant a writ of certiorari in this case.

DAVID A. GATES,
Acting Commissioner of Internal Revenue

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

Nicholas F. Brady, James C. Brady, and the Central Trust Co. of New York, as executors of the last will and testament of Anthony N. Brady, deceased, plaintiffs in error (plaintiffs below) v. *Charles W. Anderson, late collector of internal revenue, second district of New York, defendant in error (defendant below).*

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Before WARD, ROGERS, and HOUGH, Circuit Judges.

WARD, Circuit Judge: This is an action against the collector of internal revenue by the executors of Anthony N. Brady, deceased, to recover taxes assessed by the Commissioner of Internal Revenue and paid by them under protest upon income received by Brady during his lifetime before the income tax act of October 3, 1913, imposing a tax, had been passed.

The sixteenth amendment, by virtue of which the statute was enacted, was ratified February 28, 1913, and the Supreme Court has for that reason held that Congress had power to make it retroactive to March 1, 1913. Brushaber *v.* Union Pacific Railroad Co. (240 U. S., 1, 20).

Anthony N. Brady died July 22, 1913, and his executors, in accordance with the requirement of the Commissioner of Internal Revenue, made a return of the income received by him between March 1, when the act went into effect, and July 22, 1913, when he died. The commissioner assessed a tax of $61,654.72.

The case having come on for trial before Grubb, Judge, and each side having moved for the direction of a verdict, he directed a verdict for the defendant. This is a writ of error to the judgment entered thereon.

The questions presented are purely of law, involving only the construction of the statute. We confine ourselves to the consideration of the provisions relating to citizens and residents of the United States.

Section 2 of the act reads as follows:

A. Subdivision 1. That there shall be levied, assessed, collected, and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere.

* * * * * * *

D. The said tax shall be computed, upon the remainder of said net income of each person subject thereto, accruing during each preceding calendar year ending December thirty-first: *Provided, however,* That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be computed on the net income accruing from March first to December thirty-first, nineteen hundred and thirteen, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions herein provided for. On or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, a true and accurate return under oath or affirmation, shall be made by each person of lawful age, except as hereinafter provided, subject to the tax imposed by this section, and having a net income of $3,000 or over for the taxable year, to the collector of internal revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources and from the total thereof, deducting the aggregate items or expenses and allowance herein authorized; guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall make and render a return of the net income of the person for whom they act, subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals; * * *.

* * * * * * *

E. * * * Nothing in this section shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after this act takes effect be valid in regard to any Federal income tax imposed upon a person liable to such payment. * * *

The provisions of this section relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

* * * * * * *

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G. (*a*) That the normal tax hereinbefore imposed upon individuals likewise shall be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint-stock company or association, and every insurance company organized in the United States, no matter how created or organized, not including partnerships; but if organized, authorized, or existing under the laws of any foreign country, then upon the amount of net income accruing from business transacted and capital invested within the United States during such year: * * *.

The plaintiffs contend that the tax is against persons who are citizens or residents of the United States.

The Government contends that the tax is upon the property and not upon the person, which was the view taken by the trial judge.

The plaintiffs argue that as Brady, having died July 22, was neither a citizen nor a resident of the United States October 3, 1913, at the time the act was passed, its language does not authorize collection of any tax upon income received by him. On the other hand, the Government says that as the tax is upon the property, it makes no difference whether Brady was living or dead at that time.

In our opinion the tax is against citizens and residents of the United States personally. They are chargeable in respect to income received by them. The statement that the tax is upon this income does not create an obligation in rem. It is only a way of saying that the owner is taxable with reference to the income. Taxable persons are spoken of throughout the act.

The effect of making the act retroactive is, in our opinion, to apply it to Brady exactly as if it had been enacted March 1, 1913, and as, by reason of his death, he can not make a return, his executors, into whose hands his estate has come, must do so.

The judgment is affirmed.

(T. D. 2495.)

Continuing bond for distilled spirits transferred to bonded manufacturing warehouses.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 8, 1917.

To collectors of internal revenue and others concerned:

In lieu of bond, Form 643, "Transportation bond for distilled spirits withdrawn for transfer to bonded manufacturing warehouses," prescribed in Regulations No. 29, for each specific lot of distilled spirits, distillers or owners of such spirits may hereafter execute a continuing (blanket) bond, under which spirits may be so withdrawn from time to time.

Until printed forms are provided by this bureau, typewritten copies of this bond may be used, and will be in the following form:

Form No. ——.
Continuing Bond.
Act of May 28, 1880.

Transportation bond for distilled spirits withdrawn for transfer to bonded manufacturing warehouses.

Know all men by these presents, that we, ..., as principal, and ..... and ....., as sureties, are held and firmly bound unto the United States of America in the full and just sum of ..... thousand dollars, lawful money of the United

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States; to which payment, well and truly to be made, we bind ourselves, jointly and severally, our several heirs, executors, administrators, successors, and assigns, firmly by these presents.

Sealed with our seals, and dated at ....., this ....day of ....., A. D. 191–.

Whereas the above bounden principal intends to remove, without payment of tax, certain distilled spirits now deposited, or to be hereafter deposited, in the following warehouse, to wit: ..... warehouse No. ....., of ....., located at ..... in the ..... internal-revenue collection district of ..... for transportation of the said distilled spirits to the port of ..... for deposit in the bonded manufacturing warehouse No. ....., of .....

(Distillery, general bonded, or special bonded.)

Now, therefore, the condition of this obligation is such that if each lot of spirits so removed as aforesaid shall immediately on their arrival at the said port of .... and within 30 days from the date of application for withdrawal from the distillery, general or special bonded, warehouse aforesaid, be duly delivered at and deposited in the bonded manufacturing warehouse aforesaid, in accordance with the internal-revenue laws and the regulations of the Treasury Department made in pursuance thereof; and if the said principal shall, within 15 days from the date of such delivery, produce to the collector of the internal-revenue collection district aforesaid the certificate of the collector of customs at the port of ..... showing that the said spirits have been received into said bonded manufacturing warehouse and a bond taken by the said collector, conditioned that the principal therein named shall manufacture and export the said spirits as required by law, then this obligation shall be void; otherwise to be and remain in full force and virtue.

..... [SEAL.]
..... [SEAL.]
..... [SEAL.]
..... [SEAL.]

Signed, sealed, and delivered in the presence of:

.....
.....
.....

This bond will be executed in duplicate with satisfactory sureties and in a penal sum sufficient to cover 125 per cent of the estimated amount of tax which will at any one time constitute a charge against the bond, and in no case less than $1,000. An account will be kept with each bond given, and collectors will in no instance permit the removal of spirits from warehouse under such bond when the penal sum of the bond is insufficient to cover 125 per cent of the amount of tax thereon, including all outstanding charges.

When the bond is found to be insufficient, a new or additional bond with approved sureties may be accepted, and in such cases the duplicate of such new bond will be forwarded to the Commissioner of Internal Revenue as in the case of an original bond.

The collector of custom's certificate of inspection, gauging, and depositing of distilled spirits in bonded manufacturing warehouse, together with the certificate of the customs gauger and the detailed report of packages gauged, will be forwarded by collectors of internal

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revenue to the office of the Commissioner of Internal Revenue in order that credit may be taken in their bonded-spirits accounts.

Such certificates, etc., should, however, be indorsed with reference to the particular bond filed, and any payment of tax on account of deficiencies should be noted on the papers so forwarded, the quantities so tax paid to be entered at the proper lines in the collector's bonded-spirits accounts.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2496.)[1]

Alcohol for scientific purposes.

Modifying department regulations of November 4, 1911 (T. D. 1731), respecting the use of tax-free alcohol for scientific purposes.

[Internal-Revenue Circular No. 715, revised.]

TREASURY DEPARTMENT, *May 31, 1917.*

Section 3297 of the Revised Statutes of the United States provides that—

The Secretary of the Treasury is authorized to grant permits to any incorporated or chartered scientific institution or college of learning to withdraw alcohol in specified quantities from bond without payment of the internal-revenue tax on the same, or on the spirits from which the alcohol has been distilled, for the sole purpose of preserving specimens of anatomy, physiology, or natural history belonging to such institution, or for use in its chemical laboratory: *Provided*, That applications for permits shall be made by the president or curator of such institution, who shall file a bond for double the amount of the tax on the alcohol to be withdrawn, with two good and sufficient sureties, to be approved by the Commissioner of Internal Revenue, and conditioned that the whole quantity of alcohol so withdrawn from bond shall be used for the purposes above specified and for no other, and that the said president or curator shall comply with such other requirements and regulations as the Secretary of the Treasury may prescribe. And if any alcohol so obtained is used by any officer, as aforesaid, of such institution for any purposes other than that above specified, then the said officer or sureties shall pay the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

The provisions contained in the foregoing section are extended by the act of Congress approved May 3, 1878 (20 Stat., 48), which provides—

That the Secretary of the Treasury is authorized to grant permits, as provided for in section thirty-two hundred and ninety-seven of the Revised Statutes of the United States, passed at the first session of the Forty-third Congress, to any scientific uni-

[1] Superseding T. D. 1731 of Nov. 4, 1911.

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versity or college of learning created and constituted such by any State or Territory under its laws, though not incorporated or chartered, upon the same terms and subject to the same restrictions and penalties, already provided by said section thirty-two hundred and ninety-seven: *Provided further*, That the bond required thereby may be executed by any officer of such university or college, or by any other person for it, and on its behalf, with two good and sufficient sureties, upon like conditions, and to be approved as by said section is provided.

By an act (Public, No. 154, 64th Cong.) entitled "An act to amend existing laws relating to the use of alcohol, free of tax, by scientific institutions or colleges of learning," approved July 8, 1916, it is provided—

That the Secretary of the Treasury is authorized to grant permits, as provided for in section thirty-two hundred and ninety-seven of the Revised Statutes of the United States, for the withdrawal of alcohol from bond, free of tax, to any scientific university or college of learning created and constituted as such by any State or Territory under its laws, though not incorporated or chartered, and to any hospital maintained by endowment or otherwise, and not conducted for profit, upon the same terms and subject to the same restrictions and penalties already provided by said section thirty-two hundred and ninety-seven: *Provided, however*, That alcohol so obtained by hospitals may be used in surgical operations and, except as a beverage, in the treatment of patients, under such regulations as the Secretary of the Treasury may prescribe: *And provided further*, That the bond required by said section thirty-two hundred and ninety-seven may be executed by an officer of such hospital or institution or by any other person for it, and on its behalf, with two good and sufficient sureties, upon like conditions, and to be approved as by said section is provided. (T. D. 2351.)

The privilege of withdrawing alcohol in bond for the purposes above specified is held to apply to all institutions of learning, created and constituted as such under any State or Territorial law, and to hospitals similarly created and having connected therewith a training school for nurses or where clinical lectures are delivered.

In all such cases, however, the alcohol obtained must be used solely for the purposes specified in the statute, viz, for preserving specimens of anatomy, physiology, or natural history belonging to such institution, or for use in its chemical laboratory.

The use of alcohol outside of the chemical laboratory (except for the preservation of the specimens named) will under no circumstances be allowed, and its use in the chemical laboratory must be such as either to secure its actual destruction, as when burned in a spirit lamp, or destroy its identity as alcohol, as in making extracts, preparing ether or chloroform, or compounding pharmaceutical preparations to be used exclusively in the treatment of patients in the hospital to which the chemical laboratory is attached, and not to be sold to any person whatever.

The term "chemical laboratory" as used in section 3297 is held to include any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol so obtained is used purely for scientific purposes. (T. D. 1971.)

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USE OF ALCOHOL BY HOSPITALS.

ARTICLE 1. It will be noted that articles and preparations made or compounded, as hereinbefore indicated, and not the alcohol, may be used in the treatment of patients, and that the identity of the alcohol, as such, must be destroyed in the manufacture or compounding of such articles, etc. The use of the alcohol, therefore, either in a pure or diluted state, for bathing patients, cleansing surgical instruments, burning in spirit lamps, etc., outside of the chemical laboratory, can not be permitted under the statute named, and any unauthorized use of the alcohol will render the parties giving the required bond liable to "the tax on the whole amount of alcohol withdrawn, together with a like amount as a penalty in addition thereto." The use of alcohol for bathing patients, or in surgical operations, will be permitted, however, where the alcohol is first mixed in the chemical laboratory with an antiseptic and in such proportions as to change its identity and render it unfit for other purposes. Its use in such cases, however, will be permitted only when such use is specifically set forth in the application and bond filed, and the formula or formulas (subject to the approval of the Commissioner of Internal Revenue) also are specifically set forth in both the application and bond.

As here indicated, the addition of water, or small quantities of aromatic drugs, reported in certain cases, will not be regarded as a compliance with these regulations; and the use of alcohol so diluted or prepared will render the bond liable to the tax and penalty imposed. Nor should the alcohol be used for any purpose other than those specified in the application and bond; and, in cases where colleges or other institutions obtaining alcohol have a hospital connected therewith, that fact should be stated in each application and bond filed.

ART. 2. In order to secure uniformity in the issuance of permits for the withdrawal of alcohol free of tax under section 3297, Revised Statutes, for scientific purposes by incorporated and chartered institutions, and to safeguard the use of such alcohol under the provisions of section 3297, Revised Statutes, permits for such withdrawals will be issued to hospitals and sanitariums to which the privileges of this section heretofore have been extended only on applications which contain in full the formula or formulas embodied in the bond filed for the withdrawal of alcohol for such institutions, which formula or formulas must have been previously approved by the Commissioner of Internal Revenue.

With a view to the destruction of the identity of the alcohol in the chemical laboratories of such institutions, as set forth in article 1, the following formulas have been approved by this office, viz:

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For antiseptic purposes in general.

1. Alum 10 grains, camphor 3 grains, alcohol 4 ounces.
2. Carbolic acid 1 part, alcohol 99 parts.
3. Formaldehyde 1 part, alcohol 250 parts.
4. Alum 2 ounces, sulphate of zinc 1 ounce, alcohol 1 gallon.
5. Alum 1 dram, camphor 1 ounce, alcohol 1 pint.
6. Bichloride of mercury 1 part, alcohol 2,000 parts.
7. Alum 2 ounces, salicylic acid 2 ounces, oil gaultheria 2 ounces, water 1 pint, alcohol q. s. 1 gallon.
8. Carbolic acid 2 drams, oil gaultheria 20 drops, alcohol 1 gallon.
9. Bichloride of mercury 0.8 gram, hydrochloric acid 60 c. c., alcohol 640 c. c., water 300 c. c.
10. Bichloride of mercury 1½ grains, hydrochloric acid 2 drams, alcohol 4 ounces.
11. Bicarbonate of soda 3 ounces, extract of hamamelis 16 ounces, water 16 ounces, alcohol 16 ounces.
12. Formaldehyde 2 parts, glycerin 2 parts, alcohol 96 parts.
13. Oil cajuputi 1 dram, alcohol 1 pint.
14. Tannic acid 12 parts, alcohol 125 parts, water 125 parts.
15. Carbolic acid 1 dram, tannic acid 1 dram, alcohol 1 pint, water 1 pint.
16. Alum ½ ounce, formaldehyde 2 drams, camphor 1 ounce, alcohol and water each 1 pint.
17. Lysol 1 part, alcohol 99 parts.
18. Liquor Cresolis Com. (U. S. P.), 10 c. c. alcohol 1,000 c. c.

Applicants may incorporate one or more formulas in the conditions of the bonds filed, but are restricted to the use of the alcohol according to the formulas incorporated therein.

Withdrawals will not be permitted under bonds in which a formula does not appear, and applications and bonds which contain formulas different from those heretofore mentioned, and which have been approved, should not be submitted to this office for consideration and approval.

As it is the policy of the office not to multiply the number of formulas, and as it is believed that those above set forth will meet all requirements, consideration will not be given to other formulas with a view to their approval and publication. (T. D. 1969.)

The instructions herein contained supersede those contained in T. D. 1739, in so far as the same are in conflict therewith.

BOND AND APPLICATION TO BE FILED.

ART. 3. When it is desired to withdraw alcohol for the benefit of an institution under either of the above provisions of law, the applicant will present to the collector of internal revenue, in whose district the institution for which the withdrawal is to be made is situated, an application to the Secretary of the Treasury for permit to withdraw such alcohol; and in case the institution named is an incorporated or chartered institution, the application will be made by the president or curator, and in such cases a copy of the charter, or articles of incorporation, should be annexed to the first application,

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and in case the institution is a "scientific university, or college of learning," created under a general law of a State or Territory, that fact must be shown, and an extract of the law given.

In case of hospitals there should be filed, in addition to the required copy of articles of incorporation, evidence showing that the institution has a training school for nurses or other educational features.

When application is made under the act of July 8, 1916, evidence must be submitted that the hospital is maintained by endowment or otherwise, and not conducted for profit.

The proofs so furnished, showing the institution to be entitled to the benefits of the statute, must be submitted to the Commissioner of Internal Revenue for his examination and approval.

ART. 4. At the time of filing the first application, the applicant will make and execute a bond in duplicate, signed by himself as principal, and (unless signed by a surety company) with two or more sureties, who shall not be officers of the institution in which the alcohol is to be used, but shall be residents of the United States judicial district in which such institution is located, conditioned that the whole quantity of alcohol so withdrawn shall be used for the purpose of preserving specimens of anatomy, physiology, or natural history belonging to the institution, or for use in the chemical laboratory of such institution, and for no other purpose. And withdrawals may be made from time to time under said bond as long as it remains good and sufficient, or until the same shall have been revoked or canceled by order of the Commissioner of Internal Revenue.

The penal sum of bonds hereafter filed must be sufficient to cover double the amount of tax on the alcohol to be withdrawn at any one time, and in no case less than $500; and the time to be specified in the bond for the production of proofs as to use of the alcohol must in no case exceed 24 months.

In filing applications for withdrawal, the quantity of alcohol applied for should in no case exceed the quantity that will be used during the time specified in the bond.

Collectors will in no case forward an application which will make or increase the tax liability beyond one-half of the penal sum named in the bond.

When the application is made for an incorporated institution, under section 3297, Revised Statutes, the bond should be given by the president or curator of the institution as principal, whose name and official designation should appear in the recital of the bond.

When the application is made for a university or college under the act of May 3, 1878, the bond may be signed by an officer of the institution, or by any other person for it. The bond will be in the following form, viz:

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BOND.—FORM 432.

Know all men by these presents, that ——— ———, of ———, as principal, and ——— ———, of ———, and ——— ———, of ———, as sureties, are held and firmly bound unto the United States of America in the sum of ——— dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Witness our hands and seals this the —— day of ———, nineteen hundred and ———.

The condition of this obligation is such, that whereas the above-bounden ——— ———, principal, intends to withdraw from bonded warehouse, without payment of tax, certain alcohol for the sole purpose of preserving specimens of anatomy, physiology, or natural history belonging to the [1] ———, in the [2] ———, of ——— of [3] ——— and State of ———; or for the sole purpose of use in the chemical laboratory of said institution in the following described manner:[4] ——— ———.

Now, therefore, if the entire quantity of alcohol so withdrawn by the said principal from time to time hereafter, and until this bond shall have been revoked or canceled by direction of the Commissioner of Internal Revenue, shall be used by the said institution, or the proper officer thereof, for the purposes above specified, and for no other purpose, and if the principal of said institution shall, as to each lot of alcohol so withdrawn, produce, within twenty-four months from the date of such withdrawal, to the collector of internal revenue for the [5] —— district of the State of ———, proof satisfactory to that officer and to the Commissioner of Internal Revenue that the said alcohol has been so used for the purposes above specified, and for no other purpose, and shall comply with such other requirements and regulations as the Secretary of the Treasury may prescribe, then this obligation to be void; otherwise, to be and remain in full force and virtue.

And the obligors, for themselves, their heirs, executors, administrators, successors, and assigns, do further covenant and agree with the United States, in case said alcohol, or any part thereof, shall be used for any purposes other than those above specified, well and truly to pay or cause to be paid to the collector aforesaid the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

——— ———. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered in presence of—

——— ———.

——— ———.

[1] Here state the name of the institution or college.
[2] Town or city.
[3] County or parish.
[4] Here describe the mode of use. If intended for hospital use as provided in articles 1 and 2 of these regulations, the formula under which the alcohol is to be prepared for such use should also be here stated.
[5] District in which the institution is located.

The bond should be executed under seal, and the signature of the principal and that of each individual surety must be attested by two witnesses. A corporate surety must affix its corporate seal.

ART. 5. Said bond, together with the first application for permit, will be deposited by the applicant with the collector of internal revenue for the district where the institution in which the alcohol is to be

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used is located. Upon acceptance of the bond the collector will append thereto his certificate in the following form:

I hereby certify that I have carefully examined the within bond and find that the same is executed in due form; that the sureties thereto are good and sufficient, and that the principal is the duly elected or appointed ——— of the institution named and (in case the bond is given by a single or married woman) that the said principal is competent under the laws of the State in which the institution is located to enter into the foregoing obligation.

He will also certify that he has examined the matters stated in the accompanying application and finds them to be true, and that said application appears to him to have been made in good faith. The collector will then forward the original of such bond and application to the Commissioner of Internal Revenue.

Applications and bonds so received will in all cases be noted on Record 123, to be furnished collectors for that purpose, and whenever an application for alcohol is made after the first one, the collector will certify to the Commissioner of Internal Revenue that the bond remains good, or will notify him of any change affecting the responsibility of the signers.

In order that unnecessary delays and correspondence may be avoided in these cases, collectors will see that all bonds, applications, and proofs filed by applicants are prepared strictly in accordance with these regulations before forwarding the same to the Commissioner of Internal Revenue. As the duplicate permit is mailed to the person who signs the application, his or her signature and post-office address should be plainly and legibly written in order to insure the prompt receipt of the duplicate. If in a city, the street and number should be given.

FORM OF APPLICATION.

ART. 6. Upon the approval of the bond by the Commissioner of Internal Revenue, on proof satisfactory to him that the institution is entitled to the benefit of the provisions of said section 3297, as amended by the act of May 3, 1878, and the act of July 8, 1916, the principal therein named may from time to time make application, in the form hereinafter prescribed, for the withdrawal of alcohol as occasion may require: *Provided*, The penal sum of the bond is sufficient to cover double the amount of tax on the alcohol to be withdrawn and not less than $500. And upon receipt of an application by the collector, he will transmit the same to the Commissioner of Internal Revenue with his approval noted thereon.

The application in all cases should specify each package and contents, as shown by the original gauge, which package will, however, be subject to regauge on withdrawal. The application will be in the following form, viz:

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APPLICATION.—FORM 431.

TO THE SECRETARY OF THE TREASURY:

The undersigned requests permission to withdraw from the ———[1] bonded warehouse owned by ——— ———, at ———, in the ——— district of ———, the following-described alcohol which was stored in said warehouse on the —— day of ———, 191–,[2]:

No. of packages.	Serial No. of each package.	No. of warehouse stamp on each package.	Wine gallons in each package.	Degree of proof of each package.	Taxable gallons in each package.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

—— for the sole purpose of preserving specimens of anatomy, physiology, or natural history belonging to the ———,[3] located at ———, in the State of ———, of which institution the undersigned is the ———,[4] or for use in the chemical laboratory of said institution for the following-named purposes: [5] ———

(Signed) [4] ——— ———,

———.

Post-office address, ——— ———.

[1] Here insert "distillery" or "general," as the case may be.

[2] If the alcohol is in a *general* bonded warehouse, here insert the words "produced by ——— ———, distiller, in the ——— district of ———."

Here insert the name of the institution for which the alcohol is to be withdrawn.

President or curator, if an incorporated or chartered institution, and if not, then the duly authorized agent.

[5] If intended for hospital use, the formula for the destruction of the identity of the alcohol must be here given.

PERMITS.

ART. 7. Upon receipt by the Commissioner of Internal Revenue of the application filed, an original and duplicate permit will be issued by the Secretary of the Treasury, the original of which will be forwarded to the collector of internal revenue for the district in which the bonded warehouse containing the spirits is located, and the duplicate, having a receipt in blank printed on the back of it, will be transmitted to the applicant, who must sign the receipt, and should then send it to the person or firm from whom the spirits were purchased, to be at once forwarded to the distiller, who will immediately hand it to the storekeeper of the warehouse. If, however, the applicant knows the address of the distiller, he may send the duplicate directly to the distiller.

ART. 8. Upon receipt of the original permit, the collector will notify the storekeeper at the bonded warehouse from which the spirits are to be withdrawn that such permit has been granted, inclose him a copy thereof on Form 328, and direct him to deliver the spirits to the person named therein, or his duly authorized agent, without the payment of tax, upon the delivery to such storekeeper and cancellation by him of the duplicate permit issued to such person Such cancellation shall be made by writing across the face of said duplicate permit the words, "The spirits herein described were de-

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livered to the person herein named this ——— day of ———, 191–,"[1] to be signed by the storekeeper. The storekeeper will see that the receipt printed on the back of the duplicate is properly filled up and signed before he delivers the spirits. The collector's order to the storekeeper will be in the following form, viz:

OFFICE OF COLLECTOR OF INTERNAL REVENUE,
——— DISTRICT OF THE STATE OF ———,
———, *191–*.

SIR: You are hereby directed to deliver the spirits described in the application of ——— ——— to the said ——— ———, or his duly authorized agent, without payment of the tax, in accordance with the terms of the permit granted by the Secretary of the Treasury, a copy of which is inclosed.

———, *Collector*.

To Mr. ———, *Storekeeper*.

CREDIT ON BONDED ACCOUNT.

ART. 9. The storekeeper at such bonded warehouse will report such spirits on his Forms 86 and 87, with the gauger's report (Form 59, revised), as withdrawn, but will state that they were withdrawn without the payment of tax, under the provisions of section 3297, Revised Statutes, and he will immediately, upon the withdrawal of the spirits as above mentioned, transmit the aforesaid duplicate permit to the collector, who will note upon the original permit in his possession the facts of the cancellation of the permit and the withdrawal of and receipt for the spirits therein mentioned, and will transmit the permit so received from the storekeeper to the Commissioner of Internal Revenue.

The collector of internal revenue will take credit for all spirits so withdrawn on the appropriate line of his bonded account (Form 94*a*) for the month during which such withdrawal is made. He will also make the proper entry on the inside page of that account as to the quantity covered by each permit, and will forward each of such duplicate permits with his bonded account as vouchers for such entry.

All alcohol to be withdrawn for scientific purposes, free of tax, under the provisions of section 3297, Revised Statutes, is subject to regauge on withdrawal, as hereinbefore stated, but in order to obtain the benefit of the leakage allowance as provided by section 3294, Revised Statutes, as amended, a request for regauge on modified Form 179 must be filed.

PROOF AS TO USE OF ALCOHOL—FORM 524.

ART. 10. For the cancellation of the foregoing bond, or for the purpose of obtaining a credit on said bond, a certificate, under oath, and substantially in the following form, will be required of the officer or

[1] In case of any shortage or discrepancy, the same will be here noted.

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officers of the institution under whose direction or supervision the alcohol has been used, such certificate to be filed with the collector named in the bond, and, if approved, to be forwarded by him to the Commissioner of Internal Revenue with his approval indorsed thereon:

I, ——— ———, hereby certify that the alcohol described in the application of ——— ———, dated the —— day of ———, 191–, and withdrawn, under bond, from the bonded warehouse of ——— ———, in the —— district of ———, under the provisions of section 3297, Revised Statutes, for the preservation of specimens of anatomy, physiology, or natural history belonging to, or for the sole purpose of use in the chemical laboratory of, the [1] ———, located at ———, was received at said institution on or about the —— day of ———, 191–, and has been wholly used under my supervision as [2] ——— of said institution for the preservation of said specimens, or in said chemical laboratory for the following described purposes, viz: [3] ———.

———,
——— ———.

———, }ss:
———,

Personally appearing, ——— ——— made oath before me that the foregoing statement by him subscribed is in all respects correct and true.

Dated ——— ———, 191–. ——— ——— [SEAL.]

[1] Here insert the name of the institution.

[2] The official designation of the party under whose supervision the alcohol was used should be here stated.

[3] If used in making or compounding medicinal preparations for hospital purposes such use should be specifically here stated, and the following words should be added: "And that no portion of said articles or preparations has been or will be sold to any person whatever."

Collectors will see that the dates of application for and receipt of the alcohol stated in the proofs as to use of alcohol are at least approximately correct.

EXTENSION OF TIME NAMED IN BOND.

ART. 11. Where the principal to the bond is unable, from good cause, to furnish the required proof within the time specified in his bond, an extension of time, not exceeding twelve months, may be obtained upon application therefor to the Commissioner of Internal Revenue, accompanied by the consent of the sureties to the bond to such extension; such application and consent to be approved by the collector with whom the bond was originally filed.

The extension asked for must be for a specified time, not exceeding that above stated, and the application therefor must set forth the reasons why the condition of the bond as to the presentation of proof has not been complied with, and must be sworn to; and the accompanying consent of the sureties to the bond must be executed under seal, and witnessed as in the case of giving an original bond.

BLANK FORMS FURNISHED BY COLLECTORS OF INTERNAL REVENUE.

ART. 12. Blank forms of the application, bond, and proof of use herein prescribed will be furnished by collectors of internal revenue. Collectors of internal revenue who may need such forms should apply

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for them to the Commissioner of Internal Revenue. Hereafter bonds and applications must be made on these forms.

W. G. McAdoo, *Secretary of the Treasury.*

(T. D. 2497.)

Estate tax.

Instructions, with tables, relating to the computation of the 5 per cent discount to be allowed on estate tax when paid before one year after the death of decedent.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., June 4, 1917.

To collectors of internal revenue:

(1) Numerous inquiries have been addressed to the bureau relative to the method of computing the 5 per cent discount allowable on estate taxes where said taxes are paid in less than one year after the death of the decedent, as to accepting partial payments of estate taxes based on tentative returns, and as to the proper manner of reporting said taxes on Form 22.

(2) Tables showing the discount on $1 from 1 to 364 days have, therefore, been prepared and are hereto appended. Collectors and others concerned in computing the discount should use these tables exclusively. Care should be taken to determine the number of days remaining in the month during which payment is made and count forward actual days until due date. For example: Date of death, March 4, 1917, payment made September 13, 1917; there would be 17 days remaining in September, October 31, November 30, December 31, January 31, February 28, and four days in March, the due date, making a total of 172 days for which discount is allowable.

(3) Now, in computing the discount, find in the table the discount on $1 for 172 days and multiply the gross tax by this. The result will be the discount allowable, which, deducted from the full gross tax, will give the amount of tax on the date payment is made.

Executors in computing discount will use as the date of payment the date when said payment will actually be placed in the collector's hands, as the statute fixes that as the date of payment regardless of the date of remittance or mailing.

(4) In reporting estate taxes on the assessment list, the collector should in every case append a footnote on Form 23 as follows: Gross tax, $——; paid ——— (give date); discount for —— days; $——.

(5) Frequently, executors will file a return and request the collector to advise them of the amount of tax due, less discount. In such cases, the collector should compute the discount to some future

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date, advising the executor of the amount necessary to satisfy the tax on the date named, making it clear that the computation is based on the presumption that the money will be in his (the collector's) hands on that date.

(6) Again, executors file a tentative return and ask permission to make a partial payment of the tax due, usually specifying a certain amount, provided the discount on this amount is allowed.

(7) The department sees no objection to collectors accepting such partial payments and reporting the same on their assessment list as advance payments. Care should be taken, however, to compute the present worth of such payments in order to determine how much of the tax is discharged. The computations in such case should be filed with the tentative return in order that when a complete or fiscal return is filed the balance of the tax due can readily be determined. The present worth may readily be found by use of the table as follows: From $1 deduct the amount of discount on $1 from date of payment to due date. Divide the amount of tax paid by this remainder, and the quotient will be the present worth of the amount of tax liability discharged.

(8) For example, a partial payment of $300,000 is tendered 278 days before due date. By the table 5 per cent discount on $1 for 278 days is found to be $0.0380821; $1 less $0.0380821 leaves $0.9619179; $300,000 divided by $0.9619179 equals $311,876.82, the present worth or the amount of tax liability discharged by the partial payment.

(9) Hereafter in reporting estate tax on Form 22 it will only be necessary to report the total amount collected under each act. The discount allowed will likewise be reported for statistical purposes on Form 22 in totals only. In cases like that described in paragraph 8 the difference between the money paid and the present worth would be regarded as *discount* in reporting on said form.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

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5 per cent discount on $1, 1 day to 364 days.

Days.	Discount.	Days.	Discount.	Days.	Discount.	Days.	Discount.
1	$0.0001369	17	$0.0023287	33	$0.0045205	49	$0.0067123
2	.0002739	18	.0024657	34	.0046575	50	.0068493
3	.0004109	19	.0026027	35	.0047945	51	.0069863
4	.0005479	20	.0027397	36	.0049315	52	.0071232
5	.0006849	21	.0028767	37	.0050684	53	.0072602
6	.0008219	22	.0030136	38	.0052054	54	.0073972
7	.0009589	23	.0031506	39	.0053424	55	.0075342
8	.0010958	24	.0032876	40	.0054794	56	.0076712
9	.0012328	25	.0034246	41	.0056164	57	.0078082
10	.0013698	26	.0035616	42	.0057534	58	.0079452
11	.0015068	27	.0036986	43	.0058904	59	.0080821
12	.0016438	28	.0038356	44	.0060273	60	.0082191
13	.0017808	29	.0039726	45	.0061643	61	.0083561
14	.0019178	30	.0041095	46	.0063013	62	.0084931
15	.0020547	31	.0042465	47	.0064383	63	.0086301
16	.0021917	32	.0043835	48	.0065753	64	.0087671

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5 per cent discount on $1, 1 day to 364 days—Continued.

Days.	Discount.	Days.	Discount.	Days.	Discount.	Days.	Discount.
65	$0.0089041	140	$0.0191780	215	$0.0294520	290	$0.0397260
66	.0090410	141	.0193150	216	.0295890	291	.0398630
67	.0091780	142	.0194520	217	.0297260	292	.0400000
68	.0093150	143	.0195890	218	.0298630	293	.0401369
69	.0094520	144	.0197260	219	.0300000	294	.0402739
70	.0095890	145	.0198630	220	.0301369	295	.0404109
71	.0097260	146	.0200000	221	.0302739	296	.0405479
72	.0098630	147	.0201369	222	.0304109	297	.0406849
73	.0100000	148	.0202739	223	.0305479	298	.0408219
74	.0101369	149	.0204109	224	.0306849	299	.0409589
75	.0102739	150	.0205479	225	.0308219	300	.0410958
76	.0104109	151	.0206849	226	.0309589	301	.0412328
77	.0105479	152	.0208219	227	.0310958	302	.0413698
78	.0106849	153	.0209589	228	.0312328	303	.0415068
79	.0108219	154	.0210958	229	.0313698	304	.0416438
80	.0109589	155	.0212328	230	.0315068	305	.0417808
81	.0110958	156	.0213698	231	.0316438	306	.0419178
82	.0112328	157	.0215068	232	.0317808	307	.0420547
83	.0113698	158	.0216438	233	.0319178	308	.0421917
84	.0115068	159	.0217808	234	.0320547	309	.0423287
85	.0116438	160	.0219178	235	.0321917	310	.0424657
86	.0117808	161	.0220547	236	.0323287	311	.0426027
87	.0119178	162	.0221917	237	.0324657	312	.0427397
88	.0120547	163	.0223287	238	.0326027	313	.0428767
89	.0121917	164	.0224657	239	.0327397	314	.0430136
90	.0123287	165	.0226027	240	.0328767	315	.0431506
91	.0124657	166	.0227397	241	.0330136	316	.0432876
92	.0126027	167	.0228767	242	.0331506	317	.0434246
93	.0127397	168	.0230136	243	.0332876	318	.0435616
94	.0128767	169	.0231506	244	.0334246	319	.0436986
95	.0130136	170	.0232876	245	.0335616	320	.0438356
96	.0131506	171	.0234246	246	.0336986	321	.0439726
97	.0132876	172	.0235616	247	.0338356	322	.0441095
98	.0134246	173	.0236986	248	.0339726	323	.0442465
99	.0135616	174	.0238356	249	.0341095	324	.0443835
100	.0136986	175	.0239726	250	.0342465	325	.0445205
101	.0138356	176	.0241095	251	.0343835	326	.0446575
102	.0139726	177	.0242465	252	.0345205	327	.0447945
103	.0141095	178	.0243835	253	.0346575	328	.0449315
104	.0142465	179	.0245205	254	.0347945	329	.0450684
105	.0143835	180	.0246575	255	.0349315	330	.0452054
106	.0145205	181	.0247945	256	.0350684	331	.0453424
107	.0146575	182	.0249315	257	.0352054	332	.0454794
108	.0147945	183	.0250684	258	.0353424	333	.0456164
109	.0149315	184	.0252054	259	.0354794	334	.0457534
110	.0150684	185	.0253424	260	.0356164	335	.0458904
111	.0152054	186	.0254794	261	.0357534	336	.0460273
112	.0153424	187	.0256164	262	.0358904	337	.0461643
113	.0154794	188	.0257534	263	.0360273	338	.0463013
114	.0156164	189	.0258904	264	.0361643	339	.0464383
115	.0157534	190	.0260273	265	.0363013	340	.0465753
116	.0158904	191	.0261643	266	.0364383	341	.0467123
117	.0160273	192	.0263013	267	.0365753	342	.0468493
118	.0161643	193	.0264383	268	.0367123	343	.0469863
119	.0163013	194	.0265753	269	.0368493	344	.0471232
120	.0164383	195	.0267123	270	.0369863	345	.0472602
121	.0165753	196	.0268493	271	.0371232	346	.0473972
122	.0167123	197	.0269863	272	.0372602	347	.0475342
123	.0168493	198	.0271232	273	.0373972	348	.0476712
124	.0169863	199	.0272602	274	.0375342	349	.0478082
125	.0171232	200	.0273972	275	.0376712	350	.0479452
126	.0172602	201	.0275342	276	.0378082	351	.0480821
127	.0173972	202	.0276712	277	.0379452	352	.0482191
128	.0175342	203	.0278082	278	.0380821	353	.0483561
129	.0176712	204	.0279452	279	.0382191	354	.0484931
130	.0178082	205	.0280821	280	.0383561	355	.0486301
131	.0179452	206	.0282191	281	.0384931	356	.0487671
132	.0180821	207	.0283561	282	.0386301	357	.0489041
133	.0182191	208	.0284931	283	.0387671	358	.0490410
134	.0183561	209	.0286301	284	.0389041	359	.0491780
135	.0184931	210	.0287671	285	.0390410	360	.0493150
136	.0186301	211	.0289041	286	.0391780	361	.0494520
137	.0187671	212	.0290410	287	.0393150	362	.0495890
138	.0189041	213	.0291780	288	.0394520	363	.0497260
139	.0190410	214	.0293150	289	.0395890	364	.0498630

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(T. D. 2498.)

Bottling of spirits in bond.

Modifying T. D. 2488 of May 9, 1917, relative to the underfilling of bottles or using undersized bottles.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 6, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

After a careful consideration of facts presented to this office by numerous glass manufacturers throughout the country, it has been demonstrated that there is of necessity a slight variation due to expansion, etc., in the capacity of bottles as now manufactured, and in view of this fact T. D. 2488 of May 9, 1917, is hereby amended so as to permit a variation of one-half ounce above and below the standard.

Therefore, it is held that where quarts do not vary in capacity more than one-half ounce from the standard of 32 ounces and other sizes in like proportion, internal-revenue officers need not take notice of the same. It must be understood, however, that where it is found that quarts are uniformly made to contain but 31½ ounces and other sizes in like proportion, such bottles will not be permitted on the distillers' premises and all internal-revenue officers will be governed accordingly.

It will also be understood by the various distillers bottling distilled spirits in bond that where bottles are found to have a capacity of 31½ ounces as to quarts, and other sizes in like proportion, such bottles must be filled to their full capacity. If bottles are found upon either the distillers' premises or the open market uniformly to contain 31½ ounces of spirits as to quarts, and other sizes in like proportion, and if any bottle or bottles are found to contain *less than 31½ ounces of spirits as to quarts*, and other sizes in like proportion, such spirits will be subject to seizure and measures will be taken looking to the enforcement of the forfeiture of all such bottled spirits.

It will, therefore, be incumbent upon the distillers to see that the proper quantity of spirits is placed in such bottles.

Collectors will at once instruct all officers that a strict compliance with paragraphs 1 and 2 of article 21, regulations 23, revised December 21, 1912, will be expected. Where it is found upon testing bottles that the same uniformly run below the standard such bottles will be at once ordered from the distillers' premises. This allowance for variation of one-half ounce will not be made unless there shall be as many bottles running 32½ ounces as there are those than run 31½ ounces as to quarts, and other sizes in like proportion.

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A supply of this Treasury decision will be sent to collectors, and they will see that each distiller in their respective districts is furnished with a copy of the same.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON, *Acting Secretary of the Treasury.*

(T. D. 2499.)

Corporation tax.

Organization expenses represent the cost of the charter or franchise (a permanent asset) of the corporation, and do not constitute an allowable deduction from gross income.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 11, 1917.

To collectors of internal revenue:

Numerous inquiries have been made of this office with respect to the treatment by corporations in their returns of annual net income of what are known and commonly designated as "organization expenses"—that is, attorneys' and accountants' fees, together with fees paid to the State authorities prior to, or coincident with, the securing of a charter and the incorporation of the company.

In the absence of a formal and definite ruling on this question, there appears to have been some conflict in the holdings and instructions issued by this office in regard to this matter. Therefore, in order to make definite the position of the bureau and to promote consistency, it is held that "organization expenses" constitute a capital investment, such expenses being offset by the asset value of the corporate franchise, an intangible asset of a somewhat permanent character and in many instances of substantial value. Such expenses are very similar in character to the discount at which the stock issued by the company is being sold, the only effect of such expenses and discounts being to reduce the amount of capital available for use and employment in the business of the corporation. The discount at which the stock is sold is not a loss sustained within the meaning of the law, and therefore not deductible. Likewise "organization expenses"—that is to say, expenses incident to and connected with the incorporation and organization of the company—are not "ordinary and necessary expenses of *maintenance and operation*," which are the only "*expenses*" authorized by the income-tax law to be deducted from gross income.

Hence it is held that "organization expenses" do not constitute an allowable deduction from gross income of any taxable year, nor do such expenses constitute a proper item to be added to the cost

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of any physical property to be provided for through the authorized annual allowance for depreciation.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON, *Acting Secretary of the Treasury.*

(T. D. 2500.)

Sale of internal-revenue stamps for tax payment of imported tobacco, snuff, etc.

Stamps for tax payment of imported tobacco, snuff, cigars, and cigarettes to be sold *only* on requisition (customs Cat. No. 3493, revised) of proper customhouse officer. Stamp order Forms 168, 172, 173, and 485 to be restricted to use of manufacturers in the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 15, 1917.

To collectors of internal revenue:

Customs Cat. No. 3493, request to sell internal-revenue stamps to owner or consignee, same being authority from customs officers to collectors of internal revenue for the sale of stamps to owners, consignees, or importers for the tax payment of imported tobacco, snuff, cigars, and cigarettes, has been revised by the customs service, in accordance with suggestions made by the Commissioner of Internal Revenue. The new form is of the same size as stamp order Forms 168, 172, 173, and 485, used by manufacturers of tobacco, snuff, cigars, and cigarettes, and is to be similarly filed in collectors' offices.

Sales of stamps by collectors of internal revenue for the payment of tax on imported tobacco, snuff, cigars, or cigarettes shall be made *only* to owners, consignees, or importers upon the requisition blank above mentioned of the proper customhouse officer having the custody of such articles. The practice heretofore existing of filing with customs Cat. No. 3493 stamp order Forms 168, 172, 173, or 485 will be discontinued, for the reason that the necessary information as to the number and denomination of stamps and value will be filled in on revised customs Cat. No. 3493. Stamp order Forms 168, 172, 173, and 485 are to be restricted to the use of manufacturers of tobacco, snuff, cigars, and cigarettes in the United States. A separate request for each different class of stamps will be made on customs Cat. No. 3493, which will show the article imported subject to tax, the number of stamps, and the denomination of stamps required for the proper tax payment of the article imported, the quantity to be

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tax paid, the rate of tax, and the value of the stamps. Said form will also be filled in by the customs officer, showing whether the articles were imported from "Cuba" or "all other countries" (other than Cuba, Porto Rico, or the Philippines). Each requisition shall be dated and signed by the proper customhouse officer and by the owner, consignee, or importer, whose address must also be supplied.

Regulations No. 8, revised July 1, 1910, page 62, headed "Purchase of stamps," provides that "stamps for this purpose will be sold to the owners or consignees of such imported articles by the collector of internal revenue for the district in which the customhouse is situated upon the requisition of the proper customhouse officer having the custody of such articles." Said regulations are hereby amended to provide that when cigars, etc., imported in the mails are for delivery at places other than where examined by customs officers and are forwarded in accordance with the joint regulations of the Treasury and Post Office Departments to a postmaster, who notifies the addressee, furnishing him with customs Cat. No. 3493, which is forwarded to the postmaster with the package. The necessary stamps shall be procured from, and sold by, the nearest collector of internal revenue. See T. D. 37228 (customs).

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2501.)

Special excise tax on corporations—Decision of United States Supreme Court.

1. Reserve Against Unpaid Losses.
Fire insurance companies not "required by law" of Pennsylvania to hold a reserve against unpaid losses within the meaning of the act of Congress.

2. Reserve Funds Required by Law.
The words "reserve funds," as used in the act of Congress, have reference to the funds ordinarily held as against the contingent liability on outstanding policies.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., June 18, 1917.

The appended decision of the Supreme Court is published for the information of internal-revenue officers and others concerned.

W. H. Osborn,
Commissioner of Internal Revenue.

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SUPREME COURT OF THE UNITED STATES. No. 475. OCTOBER TERM, 1916.

William McCoach, collector of internal revenue, petitioner, v. *Insurance Co. of North America.*

ON writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit.

(June 11, 1917.)

Mr. Justice PITNEY delivered the opinion of the court.

This was an action brought by respondent, a fire and marine insurance company of the State of Pennsylvania, to recover a part of the excise taxes exacted of it for the years 1910 and 1911 under the act of August 5, 1909 (chap. 6, sec. 38, 36 Stat., 11, 112). As the case comes here, only two items are in dispute, one for each of the years mentioned, representing the tax upon amounts added in each of those years to that part of what are called its "reserve funds" that is held against accrued but unpaid losses.

The act imposed upon every insurance company organized under the laws of the United States or of any State an annual excise tax with respect to the carrying on or doing business equivalent to 1 per cent upon its entire net income over and above $5,000, with exceptions not here pertinent. The second paragraph of section 38 provided:

> Such net income shall be ascertained by deducting from the gross amount of the income of such * * * insurance company * * * (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums other than dividends paid within the year on policy and annuity contracts *and the net addition, if any, required by law to be made within the year to reserve funds.*

The italics indicate the particular words upon which the controversy turns, the question being whether, within the meaning of the act of Congress, "reserve funds," with annual or occasional additions, are "required by law," in Pennsylvania, to be maintained by fire and marine insurance companies, other than the "unearned premium" or "reinsurance reserve," known to the general law of insurance.

The District Court rendered a judgment in plaintiff's favor, excluding, however, the disputed items (218 Fed., 905). On plaintiff's writ of error the Circuit Court of Appeals reversed this judgment, with instructions to allow the claim in full (224 Fed., 657), and the case was brought here by writ of certiorari.

Plaintiff was chartered by a special act, but is subject to the State insurance law. Its business is confined to fire and marine insurance.

The law of Pennsylvania (act of June 1, 1911, P. L., 607, 608) creates a State insurance commissioner with supervisory control over the companies; provides in section 4 that he shall see that all the laws of the Commonwealth respecting insurance companies are faithfully executed, authorizing him to make examinations, to have access to all the books and papers of any company, to examine witnesses relative to its affairs, transactions, and condition, to publish the result of his examination when he deems it for the interest of the policyholders to do so, and to suspend the entire business of any company during its noncompliance with any provision of law obligatory upon it, or whenever he shall find that its assets are insufficient to justify its continuance in business, and whenever he finds any company to be insolvent or fraudulently conducted, or its assets insufficient for the carrying on of its business he is to communicate the facts to the attorney general. By section 15 every insurance company is required to file annual statements with the commissioner, upon blank forms to be furnished by him, such as shall seem to him best adapted to elicit a true exhibit of their financial condition. Sections 7, 8, and 9, set forth in the margin,[1] make specific

[1] SEC. 7. In determining the liabilities upon its contracts of insurance of any insurance company other than life insurance, and the amount such company should hold as a *reserve for reinsurance*, he shall, for *casualty* insurance companies, charge one-half of the premium on all annual policies written within one year, and on policies written for more than one year he shall charge one-half of the current year's premiums.

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provisions for ascertaining the reserve for different classes of companies other than life insurance companies. Another act of the same date (P. L., 1911, p. 599) provides for judicial proceedings at the instance of the insurance commissioner looking to the dissolution of insolvent and delinquent companies. Its provisions need not be quoted.

A previous act (Apr. 4, 1873, P. L., 20, 22) required a specific reinsurance reserve against unexpired risks on fire, marine, and inland policies. The act of 1911, just quoted, requires the maintenance of a substantially similar reserve; and, with respect to casualty companies and these only, that a reserve be maintained against unpaid losses based upon the amount of claims presented. The reference in section 9 to "reinsurance and loss reserves as above defined" is limited by what precedes it; and the section deals not alone with "reserves" but requires "all other debts and claims" to be accounted as liabilities.

It appears that under this legislation, and under previous statutes in force since 1873, the insurance commissioner has required plaintiff and similar companies to return each year, as an item among their liabilities, the net amount of unpaid losses and claims, whether actually adjusted, in process of adjustment, or resisted. And, although this practice has not been sanctioned by any decision of the Supreme Court of the State, it is relied upon as an administrative interpretation of the law.

Conceding full effect to this, it still does not answer the question whether the amounts required to be held against unpaid losses, in the case of fire and marine insurance companies, are held as "reserves" within the meaning of the Pennsylvania law or of the act of Congress, however they may be designated upon the official forms. As already appears, the Pennsylvania act specifically requires debts and claims of all kinds to be included in the statement of liabilities, and treats them as something distinct from reserves. The object is to exercise abundant caution to maintain the companies in a secure financial position.

The act of Congress, on the other hand, deals with reserves not particularly in their bearing upon the solvency of the company but as they aid in determining what part of the gross income ought to be treated as net income for purposes of taxation. There is a specific provision for deducting "all losses actually sustained within the year and not compensated by insurance or otherwise." And this is a sufficient indication that losses in immediate contemplation but not as yet actually sustained were not intended to be treated as part of the reserve funds, that term rather having reference to the funds ordinarily held as against the contingent liability on outstanding policies.

In our opinion, the reserve against unpaid losses is not "required by law" in Pennsylvania within the meaning of the act of Congress.

It results that the judgment of the Circuit Court of Appeals should be reversed and that of the District Court affirmed.

Reversed.

The Chief Justice and Mr. Justice McKenna dissent.

Mr. Justice McReynolds took no part in the consideration or decision of this case.

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plus the whole of the premiums for subsequent years. For *fire* insurance companies he shall charge fifty per centum of the premiums written in their policies upon all unexpired risks that have one year or less than one year to run, and a pro rata of all premiums on risks having more than one year to run; on perpetual policies he shall charge the deposit received less a surrender charge of not exceeding ten per centum thereof. For *marine* and inland risks he shall charge fifty per centum of the premium written in the policy upon yearly risks, and the full amount of the premium written in the policy upon all other marine and inland risks not terminated.

Sec. 8. He shall, in calculating the reserve against unpaid losses of *casualty* companies, other than losses under liability policies, set down by careful estimate in each case the loss likely to be incurred against every claim presented, or that may be presented in pursuance of notice from the insured of the occurrence of an event that may result in a loss, and the sum of the items so estimated shall be the total amount of the reserve * * *.

Sec. 9. Having charged as a liability the reinsurance and loss reserves, as above defined for insurance companies of this Commonwealth other than life, and adding thereto all other debts and claims against the company, the commissioner shall, in case he finds the capital of the company impaired twenty per centum, give notice to the company to make good the capital within sixty days * * *.

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(T. D. 2502.)

Oleomargarine.

Supplement 3 to regulations No. 9, revised July, 1907, concerning Government record to be kept by manufacturers of and wholesale dealers in oleomargarine.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 22, 1917

To internal-revenue officers and others concerned:

Regulations No. 9 (pp. 46, 47, and 48, and pp. 57 and 58) concerning Government records to be kept by manufacturers of and wholesale dealers in oleomargarine and monthly returns (Forms 216 and 217) are hereby amended as follows:

All transactions involving the withdrawal or sale of oleomargarine must be entered by the manufacturer or wholesale dealer on Government record books 60 or 61, as the case may be (or Forms 216 or 217 if substituted for records 60 and 61), in the order and at the time they occur, all sales to wholesale dealers to be segregated and reported on separate pages in the last part of monthly return (Forms 216 or 217), showing all sales to each wholesale dealer under name of such dealer in the form of an account current.

The regulations as amended herein are effective on and after July 1, 1917, and collectors will see that the same are strictly complied with by all manufacturers and wholesale dealers in their respective districts before forwarding monthly returns to this office.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2503.)

Capital-stock tax.

Instructions regarding the preparation of returns of capital-stock tax, Forms 707 and 708, for the taxable period July 1, 1917, to June 30, 1918.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1917.

To collectors of internal revenue and internal-revenue agents:

FORM 707.—RETURN FOR SPECIAL EXCISE TAX ON CORPORATIONS ORGANIZED IN THE UNITED STATES.

The blank return of capital-stock tax, Form 707, for the taxable period July 1, 1917, to June 30, 1918, which is required to be filed on

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or before July 31, 1917, has been revised and the following suggestions are made for the information of corporations in making up this return:

(1) The tax is computed on the fair value of the stock of the corporation for the preceding taxable year, which is the fiscal year July 1, 1916, to June 30, 1917, as stated at the head of the return.

(2) If a corporation has increased or decreased its capital stock during the fiscal year, a statement should be attached to the back of the return setting forth the number of shares of stock outstanding each month, with the average fair value of the stock for that month, computed under one of the three cases.

(3) The form requires under items 4, 5, and 6 the figures shown on the books of the corporation on June 30, 1917, but if the corporation prefers it may state the figures shown on the books at the close of the last fiscal year, such as December 31, 1916.

(4) If the stock of the corporation is listed on an exchange or is dealt in on the New York curb, the fair value should be computed under Case I from the *highest* price bid on the last day of each month, or the last day of the month on which a bid was made. A corporation, if it prefers, may average the fair value throughout the entire fiscal year by showing on a statement attached to the back of the return the highest price bid for the stock on each day throughout the year.

(5) If the stock is not listed on an exchange or the New York curb, the fair value may be computed from actual sales made during the preceding fiscal year, under Case II. If, however, there are not sufficient sales of stock listed under Case II to establish a basis for estimating the fair value of the total capital stock, the corporation will be required to fill out Case III.

(6) If the stock is not listed on an exchange and no sales have been made to the knowledge of the officers signing the return, the corporation should set forth under Case III the amount of net profits earned during the preceding five years, as shown by the returns of net income for that period, together with the average number of shares outstanding each year, and compute the percentage of profits per share earned each year. The average percentage of profits over the five-year period indicate the earning capacity. The fair value of the stock may then be estimated from the earning capacity of the corporation. It has been found upon examination of the returns of net income of a large number of different classes of corporations listed on an exchange that they earn approximately the following rates in order to make their stock worth par:

	Per cent.
Banking:	
States west of Mississippi River	8
States east of Mississippi River	6
Mercantile	10

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	Per cent.
Mining	10
Industrial	10
Oil-producing companies	15
Oil-refining companies	10
Public utilities:	
(1) Railroads	8
(2) Light and power companies	
(3) Electric railways	

(7) Corporations that have no regular earnings, such as companies organized for the purpose of developing and selling timberland, mining property, and other real property, and corporations that have earned no profits in the past five years or have only been engaged in business one or two years, can not very well estimate the value of the stock from their earning capacity. They are permitted, therefore, to file a detailed statement, attached to the back of the return, showing their assets and liabilities outstanding on June 30, 1917, or at the end of their last fiscal year, and may estimate the fair value of the stock from the book value.

(8) Holding companies and subsidiary corporations are both required to file returns and pay the capital-stock tax, and no deductions are allowed on the return of the holding corporation for the tax paid by a subsidiary.

(9) Subsidiary companies may compute the fair value of their capital stock in accordance with the method prescribed in T. D. 2493 by apportionment of the fair value of the total capital stock of the parent company among the various subsidiaries in proportion to the earnings.

(10) The 50 per cent penalty for delinquency in filing returns, as well as the specific penalty imposed by section 408 of the act of September 8, 1916, on corporations for carrying on business without payment of special tax, will be strictly enforced against corporations that fail to file returns of capital-stock tax within the time prescribed by law or by the collector.

(11) Domestic insurance companies are not permitted to deduct reserves and deposits maintained or held in the United States for the protection of, or payment to, or apportionment among policy holders, as such reserves and deposits are reflected in the fair value of the stock as computed under Cases I, II, and III.

FORM 708.—RETURN FOR SPECIAL EXCISE TAX ON CAPITAL INVESTED IN THE UNITED STATES BY FOREIGN CORPORATIONS.

(12) After careful consideration it has been decided that the amount of capital invested in the transaction of business in the United States by foreign insurance companies is the amount of "surplus to policy holders," as shown by the convention form of

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report to State insurance departments. Foreign insurance companies are permitted to state the amount of surplus to policy holders as shown by the report for the last fiscal year ended December 31, 1916. The only deduction allowed is the amount of deposits actually required by States in which the company is transacting business.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2504.)

Delivery of stamps to be made directly to taxpayer.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 22, 1917.

To collectors of internal revenue:

Internal-revenue stamps (especially those having money value) should be delivered by collectors directly to the taxpayer or his representative, except only in cases where the law or regulations expressly provide otherwise, as, for example, by article 25 of regulations No. 23, revised December 21, 1912, relating to case stamps for distilled spirits bottled in bond. In no instance, except as above provided, should stamps be delivered to a gauging officer or other person employed in or connected with the internal-revenue service. In other words, such officer or employee must not act as the messenger for conveying the stamps from the collector's office to the place where they are to be affixed to packages, thereby assuming the risk of safe delivery.

Where the applicant requests that the stamps be forwarded by mail or express the collector is, of course, absolved from responsibility upon complying with the shipping instructions.

The foregoing is, of course, applicable to deliveries of stamps by stamp deputies, and collectors should instruct them accordingly.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2505.)

Exportation of domestic wines.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1917.

To collectors of customs and others concerned:

The following regulations relating to the exportation of domestic wines free of tax are supplemental to those contained in T. D. 2416 and are issued for the guidance of the officers concerned:

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(1) Where the wines entered for export are to be transshipped or are to be shipped in sealed cars through a frontier port, the collector of customs with whom the entry is filed will immediately, upon the inspection and lading of the goods, transmit one copy of said entry, together with a copy of the transportation manifest, to the collector of customs at the port of transshipment. He will also note upon the entry so transmitted whether a *through* bill of lading has been filed in his office.

(2) Upon the receipt of such entry the collector at the port of transshipment will direct the proper officer to carefully examine the wines upon their arrival and ascertain whether the same agree in all respects with the entry and to superintend the lading of the same on board the vessel or other conveyance by which they are to be exported, or, in case such wines are shipped in sealed cars, to carefully examine the locks, seals, and tags with which the cars are secured. If the inspector finds that the fastenings of the cars have not been tampered with or (in case the seals are not intact) that the contents of the cars have not been disturbed the collector will allow the cars to proceed to their destination.

(3) If, however, the locks and seals *are not found intact,* and the inspecting officer has reason to believe that the contents of the cars have been tampered with, the collector will take the wines into his custody and report the facts forthwith to the Secretary of the Treasury and also notify the collector from whom the export entry was received.

(4) In the case of exportation *otherwise than by rail,* and if the wines inspected are found to agree with those specified in the entry, the collector will, after the goods have been duly laden and cleared, append to the entry his certificate in the following form:

FORM C.

Certificate of transshipment and exportation by vessel.

PORT OF ———, ———, 191–.

I hereby certify that the within-described articles were brought into this port by ——— on the —— day of ———, 191–, and that the same have been carefully inspected and found to be without change or diminution, except as to the following: [1] ———; that the said articles were duly laden on board the ——— for exportation to ———; and that said vessel and cargo were cleared from this port on the —— day of ———, 191–, for the port of ———.

To ——— ———, ——— ———,
Collector of Customs. *Collector of Customs.*
Port of ——— [SEAL.]

(5) Unless a *through* bill of lading has been filed with the collector of customs forwarding the export entry the proper bill of lading must be filed with the collector of customs at the port of transshipment.

(6) In case of exportation *by rail,* and the locks, seals, and tags upon the cars are found intact, the collector will, in lieu of the fore-

[1] Here state any discrepancies reported by the inspector.

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going certificate, append to the entry or transportation manifest, and under seal, the following certificate:

FORM D.

Certificate of exportation by sealed cars.

PORT OF ———, ———, 191–.

I hereby certify that the within-named car, with contents, arrived at this port on the —— day of ———, 191–, in good condition, and that upon examination the same was found to be properly locked and sealed, and that said car, with contents, cleared from this port for the port of ——— on the —— day of ———, 191–, in like good condition and properly locked and sealed.

To ——— ———, *Collector of Customs.*

——— ———, *Collector of Customs.*

[SEAL.]

Port of ———.

NOTE.—If it is found that the wines have been tampered with, collectors will detain such wines and report the fact to the Secretary of the Treasury, as provided in paragraph 3 of T. D. 2505.

(7) After having issued his certificate in either of the foregoing cases, the collector will return the entry and transportation manifests, if filed, to the collector at the port from which the merchandise was originally shipped; whereupon the collector of that port will, if the other papers in the case be satisfactory, issue his certificate, as provided in T. D. 2416, changed to meet the requirements of the case.

(8) So much of article 3 of the regulations (T. D. 2416) relating to the branding of packages for export is hereby amended so as to read as follows: "All packages or cases containing such wines must be plainly marked or tagged for identification, and such identifying marks must contain the words 'For export' in letters not less than 2 inches in height."

(9) No provision has been made in the law for allowance of tax on any loss of wines in transit.

(10) Until printed blanks of the above forms are furnished by the department the forms may be typewritten on the back of Form 711.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2506.)

Income Tax—Decision of court.

STOCK DIVIDENDS.

Stock dividends received by a stockholder constitute "gains, profits, and income" within the meaning of section 2 of the act of Congress of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 28, 1917.

The appended decision of the United States District Court for the Southern District of New York in the case of Henry R. Towne *v.*

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Mark Eisner, collector, is published for the information of collectors of internal revenue and others concerned.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK.

Henry R. Towne, plaintiff, v. *Mark Eisner, collector of United States internal revenue for the third district of the State of New York, defendant.*

AUGUSTUS N. HAND, District Judge: This is an action to recover income taxes paid upon stock dividends under protest. The directors and stockholders of the Yale & Towne Manufacturing Co., having a surplus, all of which was earned prior to January 1, 1913, voted on December 17, 1913, to transfer $1,500,000 thereof to its capital account and to apply the same to the payment of an issue of 15,000 shares of new stock of the par value of $100 a share and to distribute this stock pro rata among stockholders of record on December 26, 1913. The actual distribution was made January 2, 1914. The effect of this resolution was to increase the capital stock from $3,000,000 to $4,500,000 par. The resolution under which the stock dividend was declared also provided for scrip redeemable at par for fractional shares. The plaintiff was a holder of 8,349 shares of stock of the company, and upon distribution of the stock dividend received 4,174½ more. A tax of $20,208.94 was assessed upon his stock dividend, which he paid under protest and now sues to recover.

The act of October 3, 1913, provides (sec. B):

* * * The net income of a taxable person shall include gains, profits, and income derived from * * * interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits, and income derived from any source whatever.

The ruling of the Treasury Department (T. D., 2274), issued December 22, 1915, provides:

Stock dividends paid from the net earnings or the established surplus or undivided profits of corporations * * * are held to be the equivalent of cash and to constitute taxable income under the same conditions as cash dividends.

Gains and profits from business can only be taxed under the present income-tax act by virtue of ownership of the property from which they are derived. They are not like excise taxes based upon the earnings of a business corporate or otherwise. They are direct taxes under the decision of the Supreme Court in Pollock *v.* Farmers Loan & Trust Co. (158 U. S., 601), and would have to be apportioned but for the recent enactment of the sixteenth amendment to the Constitution. This amendment provides that—

The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States, and without regard to any census or enumeration.

Now it is manifest that the stock dividend in question can not be reached by the income-tax act, and could not even though Congress expressly declared it to be taxable as income unless it is in fact income. It is likewise true that the word must be presumed to have been used in the constitutional amendment and in the act in the sense in which the Supreme Court had theretofore defined it if a judicial definition had been clearly given. Kepner *v.* United States (195 U. S., at p. 124), Latimer *v.* United States (223 U. S., at p. 504), United States *v.* Baruch (223 U. S., 191).

I can not, however, accede to the contention of the plaintiff that stock dividends had received such a clear definition in the case of Gibbons *v.* Mahon (136 U. S., 549).

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That like most, if not all, of the cases where the question has arisen involved the consideration whether stock dividends are principal or income in a litigation between a life tenant and remainder man. The stock dividend was there principally based upon a surplus earned prior to the creation of the trust which received it and the question involved was not whether or not the dividend was income, but whether it belonged to life tenant or remainder man. The Massachusetts courts with a numerically small following have adopted the English rule and held all stock dividends to belong to the corpus of the trust fund as between life tenant and remainder man, while New York, New Jersey, New Hampshire, Pennsylvania, Maryland, Wisconsin, and other States of the Union have adopted rules of apportionment. In the matter of Osborne (209 N. Y., 450), the New York Court of Appeals held that extraordinary dividends representing accumulated profits, whether distributable in cash or in the form of stock, are to be apportioned between the corpus of the trust and the income, in the proportion in which the surplus thus distributed has been earned before or after the creation of the trust fund.

These varying rules laid down for the guidance of trustees have been to a considerable extent rules of convenient administration. The English and Massachusetts law, which the Supreme Court adopted in Gibbons *v.* Mahon, supra, has the advantage of avoiding the difficulty and expense of investigating the facts upon which any apportionment must be based.

After the decision of Lowry *v.* Farmers Loan & Trust Co. (172 N. Y., 137), it was thought by many New York trustees that extraordinary dividends, whether of cash or stock, if derived from an accumulation of corporate profits and thus appearing in the corporate resolutions, were distributable to the life tenant, irrespective of when they were earned. New York trustees began to rely upon this decision as laying down a definite, even if a rather unjust rule, when a series of cases of which the Matter of Osborne, supra, was the culmination practically, though not in terms, overruled Lowry *v.* Farmers Loan & Trust Co. and established the method of apportionment I have mentioned.

The cases relating to distribution of extraordinary dividends by trustees are particularly designed to keep the corpus intact under all circumstances and to furnish trustees with definite rules of conduct. A court may well hold that extraordinary dividends are always capital because it thinks that so much trouble and expense is avoided that this consideration outweighs occasional injustice to the life tenant. The Supreme Court laid stress upon this consideration in Gibbons *v.* Mahon, supra, and Mr. Justice Gray remarked that the method of apportionment could not "without producing great embarrassment and inconvenience be left open to be tried and determined by the courts * * * and by a distinct and separate investigation * * * of the affairs and accounts of the corporation."

I confess that if strict justice between life tenant and remainder man is to be attained I can imagine no other method than that of apportionment possible. The criterion adopted in these cases between life tenant and remainder man does not necessarily depend on whether the extraordinary dividend is in general income or not, but upon the person to whom it should belong in view of the date of the creation of the trust. For this reason I can not regard the decision in Gibbons *v.* Mahon as determining the present issues, or the language of the court there as being at most anything more than a dictum in respect to the matters here involved.

I can give little weight to the argument that the issue of the stock dividend did not affect the market value of the plaintiff's aggregate holdings, and that the distribution of 50-per cent more stock to the stockholders lessened the market price of their original stock 33⅓ per cent. This would be true in case of any cash dividend extraordinary or even ordinary. The cash distributed, plus the market value of the stock after the dividend was paid, would ordinarily be equivalent in value to the stock before the dividend. But the objection seems impressive that the transaction in nowise affected

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what the stockholder already had except to give him additional pieces of paper evidencing his ownership. He does, however, have something different before and after receiving the additional stock. What was before a mere chance that he might receive his share of the surplus in cash dividends and a vague right to secure them if the directors withheld them in a way and to an extent that indicated bad faith is now converted into a permanent interest in the capitalized surplus. He has lost the chance of cash dividends and gained an interest in the corporate enterprise that can not be taken away. This interest is derived from earnings and may be really of much greater advantage to the stockholder than the possibility or right which he has lost. It becomes capital of the corporation, but in his hands it is income and in many respects resembles the common extraordinary cash dividend accompanied by a right to subscribe for additional stock at par to an amount equivalent to the dividend in cash. To say that this distribution is not income because he received no cash, and the intermediate step is not taken, is, to my mind, quite to disregard the real nature of the transaction. As Lord Eldon said in Paris *v.* Paris (10 Vesey, jr., p. 185), when discussing the converse of this case:

> As to the distinction between stock and money, that is too thin; and if the law is that this extraordinary profit if given in the shape of stock shall be considered capital it must be capital if given as money.

See Will of Pabst (146 Wisc., 330).

The contention of plaintiff that corporate dividends are exempt not only from the normal but from the supertax is answered by the requirement in paragraph A, subdivision 2, that for the supertax there shall be a return of "total net income from all sources, corporate or otherwise." While I think the stock dividend is a dividend, it is taxable irrespective of whether it technically comes within the meaning of the word, because it represents "gains, profits, and income," and thus comes within the language of the act.

I can see no distinction in theory between the present case and that of Edwards *v.* Keith (231 Fed., 111), where the Circuit Court of Appeals for this circuit held that commissions of an insurance broker earned before the income-tax act was passed, but received after, were subject to the act, or the recent case of Southern Pacific Co. *v.* Lowe (238 Fed., 847).

It is not important whether in any given case the present stock dividend would belong to the life tenant or remainder man of a trust. In either event within the meaning of the income-tax law it must be regarded as income whether it be added to the corpus of the trust or paid to the beneficiary.

The Circuit Court of Appeals for the Eighth Circuit in the case of Lynch *v.* Turrish (236 Fed., 653), and Lynch *v.* Hornby (236 Fed., 661), use language inconsistent with the conclusion I have reached in discussing extraordinary cash dividends paid from moneys received by a corporation prior to the time the income-tax act went into effect. These dividends, however, were not derived from corporate earnings, but from appreciation of capital which had been converted into cash. They were, therefore, in no sense income and were not subject to a tax, as the Supreme Court had already held in the case of Gray *v.* Darlington (15 Wall., 65) in construing the old income-tax act passed during the Civil War.

The recent case of Brushaber *v.* Union Pacific Railroad (240 U. S., 1), held, following Stockdale *v.* Insurance Companies (20 Wall., 323), that the income-tax act under consideration could not be assailed because of its retroactive character and that Congress could impose a tax upon income even when received during a portion of the year prior to the passage of the act.

The stock dividend in question, or an equivalent cash dividend, would not belong to the stockholder until declared by the board of directors, so that it was in no proper sense income of the stockholder until that time.

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If deferred payments for commissions which were earned prior to the date of the act, but not payable until after it went into effect, were taxable as income when received under the rule laid down in Edwards *v.* Keith, supra, a fortiori is a dividend taxable as income when received, even though paid out of a surplus accumulated prior to the passage of the act, since at no time is there any legal right to the dividend vested in the stockholder until it has actually been declared. Such was the interpretation passed upon the Wisconsin income-tax act by the supreme court of that State in the case of Van Dyke *v.* City of Milwaukee (159 Wis., 460). There a dividend paid after the act went into effect out of surplus earned prior to that time was held taxable.

The whole matter turns on the new rights which the stockholder gets by the declaration of the stock dividend. The market value of the totality of his holdings may for the time remain the same as before. But, as the New York Court of Appeals in the case of Williams *v.* Western Union (93 N. Y., 162) said, when speaking of the surplus of the Western Union before the declaration of a stock dividend—

* * * it was not beyond the reach of the dividend-making power of the directors.

But, after the dividend was declared—

so far as the solvency and responsibility of a corporation is concerned, they are increased * * * where it has a surplus of property to correspond to the amount of shares issued. In such case the surplus property is secured and impounded for the benefit of the creditors of the corporation and for the public, so that thereafter it can never be legally divided, withdrawn, or dissipated in any way.

The new stock purchased and paid for out of earnings which have been added permanently to capital is as truly income of the stockholder as the cash from which it was derived was income of the corporation. This cash has, by the action of the directors, become capital of the corporation, but in its place the stockholder has received new shares representing a permanent interest in the company not subject to abatement by dividend distributions which have a value capable of realization in cash. His rights are different from those he had before the dividend was declared, and the shares of stock evidencing the new appropriation of the earnings and creating the new rights are income.

It may be said that in Edwards *v.* Keith, supra, moneys representing income had not yet come in, whereas in the case at bar they were in the hands of the corporation. Such a distinction, however, treats the stockholder as though he were entitled to a dividend if the money were in the treasury of the corporation. That such is not the correct rule is a principle permeating the whole law of corporations. To go counter to it here would be to require investigations in every case as to when the property out of which dividends are paid accrued to the corporation itself. Indeed, the very year the income-tax act was passed it probably was true that a good many of the corporations which were paying their regular dividends were not earning them but were paying them out of passed earnings. Can it be supposed for a moment that Congress intended to require no income tax of the citizen because the regular dividend he received would not have been received at all if it had depended upon the earnings of the corporation during that year? The real stumbling block which affects everyone, and I confess has affected me, is the taxation of very large accumulations of earnings distributed by corporations after the passage of the act. Certainly a mere matter of size can make no difference in determining whether the property taxed is income or not. The doubt I have felt in reaching my conclusion has not been due to the nature of stock dividends but to the difficulty which Judge Sanborn found in Lynch *v.* Turrish, supra, in determining whether Congress intended to tax earnings at all which had accrued in the hands of the corporation prior to the passage of the act but were distributed later—in other words, in determining whether practically to ignore the corporate form and treat earnings whenever distributed as though declared in law at the time they were earned.

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The Federal income-tax act passed October 8, 1916, providing that a cash or stock dividend payable out of earnings since March 1, 1913, shall be considered income, has no bearing upon this case. It may be argued that it was a limitation or an extension of the income taxable by the act under consideration, but in neither event can it be held to define the income which was theretofore taxable.

I can have no doubt that the act of Congress taxing the dividends in question is constitutional, for they possess the real essentials of income. The action of the officials in assessing and collecting the tax was authorized. The plaintiff has established no claim to a repayment of it, and the demurrer to his complaint is sustained.

Dated June 15, 1917.

(T. D. 2507.)

Corporation taxes—Decision of court.

SUIT FOR TAXES.

A suit for recovery of taxes erroneously or illegally assessed can be brought against the collector only who collected the taxes, and not his successor.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1917.

The appended decision of the United States Circuit Court of Appeals for the Third Circuit in the case of Philadelphia, Harrisburg & Pittsburgh Railroad Co. to use, etc., *v.* Ephraim Lederer, collector of internal revenue, is published for the information of internal-revenue officers and others concerned.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

Philadelphia, Harrisburg & Pittsburgh Railroad Co. to use, etc., v. Ephraim Lederer, collector.

ERROR to the District Court of the United States for the Eastern District of Pennsylvania.

Before BUFFINGTON, MCPHERSON, and WOOLEY, Circuit Judges.

The satisfactory opinion of Judge Thompson (239 Fed., 184) relieves us from discussing nearly all the questions raised by this writ of error. We concede the force of the company's argument that in substance, and especially in practical effect, suits such as this are against the collector as an official rather than as an individual—his personal liability is rarely if ever enforced—and it may be that Congress might with safety and propriety extend the existing law to cover the situation now presented. But until the change be actually made we are bound by the law as it stands, and we see no reason to doubt that the statutes and decisions now in force prevent the company from recovering in this action for the taxes collected by William McCoach, the defendant's predecessor in office. No suit to recover them had been brought against McCoach, and for this reason the act of 1899 does not apply.

We need hardly say that without statutory permission no suit to recover a Federal tax can be maintained: Moreover the statutes on this subject must be strictly obeyed;

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they lay down the conditions and limitations under which the sovereign consents to be sued, and this consent should not be enlarged by construction. We turn for a few moments to the act of 1899, since this seems to be the company's principal reliance. Some additional facts should first be stated in order to make the position clear. The company paid the tax for 1909 in June, 1910, the tax for 1910 in June, 1911, and the tax for 1911 in June, 1912. These taxes were paid under protest to McCoach, who remained in office until October 7, 1913. During his term, namely, in June, 1912, January, 1913, and May, 1913, respectively, the company claimed the refund of these three taxes; and in June, 1913, it also presented a petition to abate the tax of 1912 apparently on the ground that penalties had been incurred in addition to the tax, although we do not precisely know what abatement was asked for. The claim for the refund of the tax for 1909 was rejected by the Commissioner of Internal Revenue on July 15, 1912, but apparently the subsequent claims for refund of the taxes of 1910 and 1911 and also the petition for abatement in connection with the tax for 1912 were not disposed of until February, 1914.

On October 22, 1913, after McCoach had retired from office, the company filed a supplemental affidavit with the commissioner in support of its petition to abate the tax of 1912, and on the same day asked him to reopen and reconsider his refusal to refund the tax of 1909. On October 27, 1913, this request to reopen was granted, and at the same time the commissioner asked for additional information and affidavits in reference to the claims for the refund of the taxes for 1909, 1910, and 1911, and also in reference to the petition to abate the tax of 1912. Accordingly, an affidavit was furnished on January 14, 1914. In February, 1914, the petition for abatement was refused, and apparently at the same time the claims for the refund of the taxes for 1909, 1910, and 1911 were also refused, for on February 13, 1914, Lederer notified the company that these claims, and also the petition for abatement, had been examined and rejected by the commissioner. In March, 1914, a claim to refund the tax for 1912 was presented, and was refused soon afterwards. The present suit was brought on June 29, 1914, and sought to recover from Lederer the taxes for the four years.

From these facts it seems clear to us that the act of 1889 does not apply. The act is as follows:

> No suit, action, or other proceeding, lawfully commenced by or against the head of any department or Bureau or other officer of the United States in his official capacity, or in relation to the discharge of his official duties, shall abate by reason of his death, or the expiration of his term of office, or his retirement or resignation, or removal from office; but, in such event the court, on motion or supplemental petition filed, at any time within twelve months thereafter, showing a necessity for the survival thereof, to obtain a settlement of the questions involved, may allow the same to be maintained by or against his successor in office, and the court may make such order as shall be equitable for the payment of costs.

The only "suit, action, or other proceeding" that could have been begun against McCoach while he was in office would have been a suit for the taxes of 1909 and 1910, but no such suit was brought, and it can not be successfully contended that a mere claim for refund, which is a matter wholly for the commissioner, is a suit proceeding against the collector. The basis of an action against the collector is his receipt of the tax, and if he has not received it we do not see how he can be called on to pay it back. And the fact that Lederer was the channel by which the commissioner transmitted the refusal to refund did not impose liability. Lederer was liable, if at all, for the tax of 1912, for this had come into his own hands, but no statute made him liable for the money that was collected by his predecessor but had never been sued for.

For these reasons, and for those to be found in Judge Thompson's opinion, the judgment is affirmed.

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(T. D. 2508.)

Distilled spirits in bonded warehouse.

Excessive losses of distilled spirits in bonded warehouse—Revising T. D. 2472 of April 2, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 5, 1917.

To collectors of internal revenue and others concerned:

Section 4, act of May 28, 1880, provides:

> If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package hereafter deposited in the distillery warehouse, other than the loss provided for in section 3221 of the Revised Statutes of the United States, as amended, which, in the opinion of the Commissioner of Internal Revenue, is excessive he may instruct the collector of the district in which the loss has occurred to require the withdrawal from warehouse of such distilled spirits, and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into the warehouse in such cask or package has not expired.

A like provision is made in section 58 of the act of August 28, 1894, as to spirits stored in general bonded warehouses or any special bonded warehouse.

In view of the loss allowance provided in section 50, act of August 28, 1894, as amended, and the large excessive losses frequently discovered on a special regauge of packages in warehouses, collectors will hereafter be directed to require the immediate withdrawal of all packages showing on regauge a loss of 25 per cent or more over the statutory allowance, where such excessive loss exceeds 2 proof gallons.

Packages showing an excessive loss exceeding 25 per cent over the maximum statutory allowance (where such excessive loss does not exceed 2 proof gallons), and which have remained in warehouse less than four years, will be permitted to remain in warehouse until the spirits therein contained are eligible for bottling in bond—namely, four years from date of original gauge—provided the statutory allowance ascertained at the time such special regauge is made is accepted by the distiller as the final allowance to be made on the withdrawal of the packages from the warehouse, and is so noted on Form 381 to be at once filed in duplicate, one copy of which will be forwarded by the collector to this office.

The retention in warehouse of such deficient packages will not be permitted, however, where the condition of the warehouse or the packages is such as indicates a want of proper care on the part of the distiller in preventing unnecessary losses, or where the loss is of such extent as will materially affect the tax security afforded by the lien under section 3251 of the Revised Statutes.

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This Treasury decision supersedes T. D. 2409, T. D. 2435, and T. D. 2472.

Collectors will see that a copy of this Treasury decision is furnished each distiller in their respective districts.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2509.)

Capital-stock tax.

T. D. 2493 of May 22, 1917, modified with respect to basis of apportionment of total capital stock of parent corporation among subsidiary companies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1917.

SIR: Referring to your personal call at this office on July 6 and to your letter of June 27, 1917, regarding the method outlined in T. D. 2493 of computing the fair value of capital stock of subsidiary companies by apportionment of the fair value of the total capital stock of the parent company, you are advised that this office approves of your suggestion that the basis of apportionment be changed from the amount of "net profits derived by the parent company from each subsidiary during the preceding year" to the total amount of net profits earned by the subsidiaries, plus the amount of net profits earned by the parent company, from actual operations and investments or holdings of stock in other companies.

In this way a subsidiary company that earned a large profit during the preceding year and returned nothing to the parent corporation, but applied it all to the surplus account, would be given a value, whereas under the method outlined in T. D. 2493 such a subsidiary would have no value for the purpose of taxation under this act.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2510.)

Exports free of tax.

Withdrawal entry and bill of lading to be sent to collector of customs with whom export entry is originally filed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1917.

COLLECTOR INTERNAL REVENUE, *St. Louis, Mo.*

SIR: This department is in receipt of a letter from the collector of customs at the port of St. Louis in reference to the exportation of articles free of tax under internal-revenue regulation No. 29, where

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the articles entered at one port are to be shipped to and exported from another port.

It appears that in many such cases the application for withdrawal (Form B) and bill of lading (art. 88 of said regulations) are forwarded by the collector of internal revenue receiving the same to the collector of customs at the *outer* port from which the goods are to be finally exported instead of to the collector at the port where the export entry is filed.

This practice has led to some confusion, owing to the fact that under the regulations the collector of customs receiving the export entry is required, in case of transshipment, to forward a copy of such entry to the collector of the outer port, who, after the goods have been reinspected and cleared, is required to issue his certificate of *transshipment* (arts. 121–122) instead of a certificate (Form F, art. 118), which last-named certificate is often issued where the withdrawal entry (Form B) has been sent directly to him.

Hereafter, where goods entered at one port are to be transshipped at another (outer) port such withdrawal entry and accompanying bill of lading will in all such cases be forwarded to the collector of customs with whom the export entry is originally filed, and article 92 of regulations No. 29 is hereby modified accordingly.

Respectfully,

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:

BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2511.)

Bonds for release of seized property.

Instructions relative to acceptance of bonds for value under section 3459, Revised Statutes, in seizure cases.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1917.

To collectors of internal revenue:

A practice has grown up in recent years, which has met with at least tacit, if not express, approval of this office, of releasing property seized for forfeiture upon the filing of a bond under section 3459, Revised Statutes, for the value of such property, whenever the property was of a character such as to render it liable to decrease in value or to be expensive to keep, without reference to the section of the statutes under which forfeiture was sought.

A recent case has, however, induced a more thorough study of the statutes and early decided cases, and this office has reached the conclusion that the possibility of a recovery on a bond under section

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3459, Revised Statutes, where the claim to forfeiture is based upon sections other than section 3453, Revised Statutes, is, to say the least, greatly jeopardized.

You are, therefore, instructed hereafter, in the case of seizure of automobiles, horses, and other similar property, to refuse to accept a bond under section 3459, Revised Statutes, for release unless the property was seized under the provisions of section 3453, Revised Statutes, only.

In all such cases where the seizure was *not* made under section 3453, if the property is appraised at $500 or less, you will proceed to dispose of same promptly under the provisions of section 3460, unless a bond for costs under said section is given, in which event the bond should be promptly forwarded to the United States attorney with the request that libel proceedings be instituted against the property and the property itself should be turned over to the United States marshal. If the value is in excess of $500, the property should likewise be turned over to the United States marshal and the United States attorney requested to institute forfeiture proceedings, but in that event a bond for costs is not required. After the property is in the custody of the court, the question of its release on bond is within the jurisdiction of the court, and application for such release should be made to the court and not to the collector.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2512.)

Income tax.

Opinion of the Attorney General on the question of exemption from income tax of corporation dividends paid in the form of Liberty Loan bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 8, 1917.

The appended opinion of the Attorney General on the question of exemption from income tax of corporation dividends paid in the form of Liberty Loan bonds is published for the information of internal-revenue officers and others concerned.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

The SECRETARY OF THE TREASURY.

SIR: Pursuant to section 356 of the Revised Statutes you ask my opinion upon the following questions arising under the administration of your department:

(1) Whether the stockholders of a corporation receiving a dividend declared payable and distributable in bonds issued under the act of Congress approved April 24, 1917, will have to pay an income tax.

(2) Whether a corporation owning these bonds would be to that extent exempt from excise taxes, franchise taxes, and other corporation taxes of the United States and of the several States.

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I am of opinion that an affirmative answer must be returned to the first question and a negative answer to the second.

The Act of April 24, 1917, provides as to the bonds thereby authorized that—

The principal and interest thereof * * * shall be exempt, both as to principal and interest, from all taxation, except estate or inheritance taxes, imposed by authority of the United States, or its possessions, or by any State or local taxing authority.

Like every exemption from taxation, this provision must be literally construed and can not be extended beyond its precise terms. It protects an owner of these bonds from any tax of whatever character, except estate or inheritance taxes, levied upon them by reason of his possession and ownership; but a tax levied upon one's net income or annual gain can not be evaded because the income or gain happens to be liquidated by the delivery of a certain number of these bonds or other nontaxable securities. Such a tax is upon the income itself as an entirety and not upon the specific articles into which this income is finally transmuted. When these bonds, therefore, are used as a medium of payment, whether in the discharge of a private debt or a corporate dividend, the profit or gain to the recipient is nevertheless subject to income tax.

Similar principles control in answering your second question. I assume that in speaking of "excise taxes, franchise taxes, and other corporation taxes" you refer to those taxes which are laid, not upon the property of a corporation by reason of possession or ownership, but upon the value of the exercise of corporate privileges—a value which may be measured by the size of its annual income, the amount of its capital stock, or such other standard of measurement as the taxing power may select.

Such a tax, for instance, was the special excise tax upon corporations under the act of August 5, 1909 (36 Stat., 11, 112), discussed by the Supreme Court of the United States in the case of Flint *v.* Stone Tracy Co. (220 U. S., 107), in which the court said:

It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the measure of taxation is found in the income produced in part from property which of itself considered is nontaxable. Applying that doctrine to this case, the measure of taxation being the income of the corporation from all sources, as that is but the measure of a privilege tax within the lawful authority of Congress to impose, it is no valid objection that this measure includes, in part at least, property which as such could not be directly taxed (p. 165).

The special excise tax levied upon corporations by the act of September 8, 1916 (39 Stat., 756, 789), and measured by the fair value of their capital stock is a tax of the same general character, imposed with respect to the carrying on or doing business by such corporations, and the rule laid down in the case of Flint *v.* Stone Tracy Co. applies equally to it. Quoting again from that decision:

* * * The distinction lies between the attempt to tax the property as such and to measure a legitimate tax upon the privileges involved in the use of such property (p. 163).

Respectfully,

T. W. Gregory, *Attorney General.*

(T. D. 2513.)

Estate tax.

Instructions for executing Form 706, revised July, 1917.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., July 16, 1917.

To collectors of internal revenue and others concerned:

The following instructions for executing Form 706, revised July, 1917, are issued. An allotment of this decision (No. 2513) will be

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furnished each collector, and a copy should be transmitted with Form 706 to every executor or other representative of an estate required to make return. A copy of Regulations No. 37, revised May, 1917, should also be furnished in every such case.

1. If decedent maintained more than one residence, his principal residence (actual domicile) determines the internal-revenue district in which return must be filed and tax paid.

2. If decedent was a nonresident and his sole property within the United States, Hawaii, or Alaska was stock or bonds of an American corporation, his return should be filed with the collector in whose district the head office of the corporation is located, unless the estate has a representative in this country having the stocks or bonds in charge, in which case the return may be filed with the collector in whose district the representative has his office.

3. In describing realty it may not be necessary to recite the whole description on the deed, but sufficient data should be given in each case to permit an immediate and exact location by a Government officer. For example: W. ½, sec. 2, tp. 20, Madison, Ill.; or House and lot, 125, So. Main St., Auburn, N. Y.

4. If accrued income has been reduced to cash prior to death and is included in "cash in bank" or otherwise accounted for on the return, it should not be set up in the income column.

5. Under item 2 there must be shown every gift or transfer of material value made or effected by decedent within two years prior to day of death. With the return may be submitted such evidence as the estate elects to submit showing whether the gift or transfer was made in contemplation of death, and the question of taxability will be ruled upon by the Commissioner before the assessment against the estate is confirmed. Every gift or transfer made in contemplation of or intended to take effect at death must be returned, regardless of the date when made or effected.

6. The highest selling price of stocks and bonds on the day of death fixes the value to be returned; or if no sale, then the highest bid price. If the stocks or bonds are not listed on the market, the executor may set up, from the best evidence he possesses, a value that he deems the true value as of the day of decedent's death.

7. If the bulk of the estate is community property held in legal partnership by decedent and spouse, its value should not be shown under item 4, but decedent's legal share should be returned under the several items, realty, stocks and bonds, etc.; otherwise the jointly owned property should be exactly described under item 4.

8. No item of deductions can be taken in excess of an amount actually expended, or if expended, in excess of the limit, if any, set upon such expenditure by the local law.

9. Mortgages resting on decedent's property should be shown under "Deductions" and the full value of the mortgaged realty

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should be shown under item 1 of "Gross estate." A similar rule must be applied with regard to hypothecated personalty.

10. It should be noted that deductible losses are strictly limited to those arising from fires, storms, shipwreck, or other casualty, and theft, when not compensated for, by insurance or otherwise.

11. If discount is taken in paying State inheritance or transfer tax, only the net amount of the payment can be deducted.

12. A nonresident's estate will show under items of the "Gross estate" only the gross estate within the United States, but will show under "Deductions" the entire legal deductions wherever incurred. It will then show in the space subjoined to "Recapitulation" the whole gross estate wherever situated and compute in accordance with Article XXIII of Regulations No. 37, revised May, 1917, the allowable share of total deductions.

13. The initial rates of tax apply if the decedent died between September 9, 1916, and March 2, 1917, inclusive. The rates 50 per cent higher apply if the decedent died on or after March 3, 1917.

14. In computing discount, follow carefully T. D. No. 2497 of June 4, 1917.

15. In the jurat, cross out the inapplicable word, so that the return will certainly show whether it is submitted as tentative or final.

16. Further instructions are set forth fully in Regulations No. 37, revised, copy of which may be secured from the collector.

17. Remember that return and tax payment must be *in the collector's hands* before the year from the day of death has expired.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2514.)

Fruit-brandy distilleries.

Details as to Vai spirit meters prescribed for use at fruit-brandy distilleries by T. D 2491 of May 21, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 24, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Referring to T. D. 2491 of May 21, 1917, prescribing the use of the Vai spirit meter in fruit-brandy distilleries to be installed on September 1, 1917, or as soon thereafter as available, information is now in the possession of this department from which it is deemed advisable to publish the following, that distillers may obtain the meters and install them at the earliest possible moment. These meters are made in three sizes:

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Meter No. 1.—One-quart units, ready for installation with sample box attached, capacity from 0 to 400 gallons of spirits during a period of 12 hours continuous running, $150 to $200 f. o. b. factory.

Meter No. 2.—Half-gallon units, complete, ready for installation with sample box attached, capable of measuring from 400 to 1,400 gallons of spirits during a period of 12 hours continuous running, $250 to $325 f. o. b. factory.

Meter No. 3.—One-gallon units, complete, ready for installation with sample box attached, capable of measuring from 1,400 to 14,000 gallons of spirits during a period of 12 hours continuous running, $375 to $450 f. o. b. factory.

By reason of the disturbed labor conditions and the fluctuating price of materials, it is impracticable to state the exact price at which these meters will sell from time to time, and some latitude has therefore been allowed.

These meters may be purchased from the owner and inventor, James L. Vai, care of De Camp & Sloan (Inc.), 420–422 Ogden Street, Newark, N. J., and James L. Vai, owner and inventor, care of Pacific Copper & Brass Works, Los Angeles, Cal.

It is expected that the same will be carefully tested as to accuracy at the factory before shipment.

Distillers should carefully determine in advance the capacity of the meter required for their purpose, and its installation should, therefore, be in accordance with their needs.

It is expected from the statements of the manufacturers that meter No. 1 will be available the latter part of August and the other sizes soon thereafter.

When these meters have been installed, the distilleries should be carefully inspected by a division deputy or members of the revenue agents' force to ascertain whether or not the installation is in strict conformity with the requirements of T. D. 2491 as to the continuous closed process affording no access by the distillers to the spirits at any point from the tail of the worm to the brandy and singling tanks prescribed in said decision. Particular care should be exercised to see that sample boxes of the requisite size are provided for each meter.

It will be observed from T. D. 2491 it is contemplated that storekeeper-gaugers in the capacity of gaugers will be assigned to distilleries having a capacity of 100 gallons or upward daily, and at distilleries of a less capacity than 100 gallons daily officers will not be constantly assigned, but will visit the distilleries twice a month for the purpose of gauging spirits, and the sample boxes should, therefore, be of sufficient size to admit of the compliance with these provisions of the Treasury decision in question.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

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(T. D. 2515.)

Distilled spirits—Gauging.

Modification of regulations as to maximum limit of wantage in packages containing spirits of 150 proof and upward.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 16, 1917.

On and after September 1, 1917, the maximum limit of wantage in all packages of distilled spirits of a proof of 150 and upward, when filled at distillery warehouses, at fruit distilleries whose daily producing capacity exceeds 100 proof gallons, and at rectifying houses, will be as follows:

On packages of less than 63 gallons capacity, when the temperature of the spirits is 50° F. or upward, 1 gallon; when the temperature of the spirits is below 50° F., 1½ gallons.

On packages of 63 gallons capacity and upward to 126 gallons, when the temperature of the spirits is 50° F. or upward, 2 gallons; when the temperature of the spirits is below 50° F., 3 gallons.

On packages of 126 gallons capacity and upward the wantage will be restricted to 3 gallons when the temperature of the spirits is 50° F. or upward, and to 4 gallons when the temperature of the spirits is below 50° F.

The regulations on pages 26–28 of the Gaugers' Manual (1913) and on pages 150–151 of No. 7, revised July 10, 1914, are hereby modified accordingly. No change is made in the existing rules as to maximum wantage in packages filled with spirits of a proof of less than 150.

Copies hereof will be furnished collectors for distribution to gauging officers.

The following schedule sets forth the limit of wantage according to the regulations as hereby amended:

	Spirits less than 150.	Spirits 150 and upward.
Capacity less than 63 gallons:	*Gallons.*	*Gallons.*
50° F. and up	½	1
Below 50° F	1	1½
Capacity 63 to 126 gallons:		
50° F. and up	1	2
Below 50° F	1½	3
Capacity 126 gallons and upward:		
50° F. and up	2	3
Below 50° F	3	4

DAVID A. GATES,
Acting Commissioner.

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(T. D. 2516.)

Wine bond.

Bonds covering winery premises and storerooms are held to be continuing bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 17, 1917.

COLLECTOR OF INTERNAL REVENUE, *Kansas City, Mo.*

SIR: This office is in receipt of your letter of August 11, in which it is stated that Mr. Ernest C. Jaeger, operating bonded winery No. 2 in your district, and who submitted final report on Form 701 for December, 1916, desires to again begin crushing grapes during the month of August preparatory to the manufacture of wine. You request to be informed whether it will be necessary for Mr. Jaeger to file a new Form 698 and bond, Form 699, covering operations at this winery for the present fiscal year.

In this connection you are advised that bond Form 699 is a continuing bond for all transactions under the provisions of the act of September 8, 1916, and all regulations issued pursuant thereto, except where it is anticipated that there will be a marked increase in business, in which case it will be necessary to file a revised Form 698 covering the estimated increased quantity of wine to be produced or held at any one time during the year, and to submit also a new bond in a larger penal sum, in accordance with the provisions of article 4, regulations 28, supplement 2. Therefore, it will not be necessary for the proprietors of bonded wineries or storerooms who have filed the required Forms 698–699 to again file such forms for each fiscal year, unless, as stated above, an increase in their business necessitates a bond of a larger penal sum, but they may continue to manufacture wine under the provisions of their original bond, Form 699, until application for the cancellation of the same has been made to this office or to the department.

Upon the passage of the new revenue bill you will be further advised whether it will be necessary to rebond such premises under the new act. Please be governed accordingly.

Respectfully,

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

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(T. D. 2517.)

Exportation of combination packages containing tobacco and cigarettes.

Amending regulations No. 29, revised August 18, 1914, so as to permit repacking of tobacco and cigarettes under the supervision of a customs officer at the port of New York into combination packages for exportation to United States soldiers in Europe.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 17, 1917.

To collectors of internal revenue:

In order to permit so-called soldiers' kits or cartons containing packages of either smoking or chewing tobacco, or both, and cigarettes to be made up in this country for exportation without payment of tax to United States troops in Europe, shipments of manufactured tobacco and cigarettes shall be made under export bonds from the several factories, consigned to the collector of customs at the port of New York, as prescribed in regulations No. 29, revised. These shipments from different tobacco and cigar factories shall be of such quantities and so timed that they will arrive in New York and will be delivered upon certain premises, to be designated by the collector of customs, at approximately the same time and the soldiers' kits made up therefrom and exported in one lot. The object of this is to enable the collector of customs, upon lading of the combination packages on board the exporting vessel, to issue in due time certificate of exportation corresponding to each application for withdrawal which went to make up the shipment of combination packages and to forward the several certificates of exportation to the collector of internal revenue of the respective districts, to be credited against the export bond of the manufacturers.

The premises to which the tobacco and cigarettes will be delivered shall be satisfactory to the collector of customs and under his direction, in charge of a customs storekeeper. The expenses incident to the establishment and continuance of such premises shall be borne by the exporting manufacturers, who will also be required to furnish the labor to do the repacking under the supervision of the customs storekeeper. When necessary an internal-revenue officer may be detailed by the collector of internal revenue for the district for duty at such premises.

Regulations No. 29, revised August 18, 1914, articles 97 and 98, are hereby amended accordingly, limited to the purposes stated and for the period of this war.

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2518.)

Income tax.

Extending provisions of T. D. 2476 of April 5, 1917, which granted an extension of time in which to file returns of income for 1916 by nonresident alien individuals and corporations and American citizens residing or traveling abroad.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1917.

To collectors of internal revenue:

The provisions of T. D. 2476 of April 5, 1917, extending "to include September 1, 1917," the time in which nonresident alien individuals and corporations and American citizens residing or traveling abroad may make returns of income for 1916, are hereby extended to include November 1, 1917.

In all such cases there is required to be attached to the return a statement of the reasons for the delay, and if an extension of time beyond November 1, 1917, shall be necessary, it is required that an application be made in each particular case, with a statement of the reasons for the request.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2519.)

Corporation income tax.

Premiums paid to insurance companies on policies insuring in favor of corporations, lives of officers or employees, are not hereafter deductible from gross income, but, to the extent that such premium payments have not been previously deducted from gross income in any return of annual net income, they may be deducted from the proceeds of the policy when such proceeds are received, the net proceeds being returned as income.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1917.

To collectors of internal revenue:

T. D. 2090, in so far as it authorizes corporations to deduct from gross income the annual premiums paid on policies insuring the lives of officers or employees in favor of such corporations, is hereby modified to the extent that instead of the corporations carrying such insurance being permitted to deduct from gross income of the year in which paid the amount of the annual premium payments, they will

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hereafter be permitted to deduct from the gross proceeds, when received, of any policies of which the corporations are the beneficiaries the entire amount of the premiums paid during the term of the policies, less any premium payments which, under the former ruling, have been deducted from gross income in any return of annual net income, and the net proceeds of the policies thus ascertained will be returned as taxable income of the year in which received.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury

(T. D. 2520.)

Food-control act, section 15.

Instructions to collectors of internal revenue, revenue agents, and others as to the use of foods, fruits, and food materials in the production of beverage spirits under section 15 of the food-control act approved August 10, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Mr. Herbert Hoover, United States food administrator, in construing the food-control act approved August 10, 1917, has ruled that section 15 of said act contemplates that where foods, fruits, food materials, or feeds are used in the manufacture of distilled spirits for beverage purposes all fermentation must be finished not later than 11 o'clock p. m. of September 8, 1917.

This ruling means that all fermentation for the production of beverage spirits from the prohibited materials must be completed at grain and molasses or other distilleries producing beverage spirits not later than 11 o'clock p. m. of September 8, 1917. Storekeeper-gaugers and storekeeper-gaugers as gaugers will therefore see that spirits distilled from beer made from the prohibited materials in the production of beverage spirits and fermented prior to 11 o'clock p. m. September 8, 1917, shall be kept separate and apart from the product of the prohibited materials fermented after the hour and date stated for use in the production of nonbeverage spirits. If such materials and distillates are mixed, the entire product must be treated as nonbeverage spirits and must bear the requisite label.

If the fermentation is complete before the hour specified, the spirits may be promptly distilled for beverage purposes and promptly entered into warehouse thereafter.

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Foods, fruits, food materials, or feeds prohibited for use in producing beverage spirits are held by the food administrator to include all cereals, tubers, fruits, molasses, grape cheese, apple cheese, fruit parings, cannery refuse, beet-sugar molasses, sour wine, and all other foods, feeds, fruits, food materials, and the by-products thereof. All instructions, regulations, communications, etc., to collectors of internal revenue and revenue agents with regard to said act and regulations thereunder will be issued by the Commissioner of Internal Revenue, and all communications, inquiries, etc., from internal-revenue officials with regard to this subject must be addressed to the Commissioner of Internal Revenue.

Internal-revenue storekeeper-gaugers and storekeeper-gaugers assigned as gaugers will take cognizance of said act and the regulations and rulings thereunder and will not permit the use in the production of beverage spirits after 11 p. m. September 8, 1917, of any material held by the food administrator to be foods, fruits, food materials, or feeds.

Spirits manufactured for other than beverage purposes from such prohibited materials after September 8, 1917, must, when entered into warehouse, bear a printed label, to be provided by the distiller, bearing the following legend:

These spirits were produced from materials fermented after September 9, 1917. All persons are warned that their use in the manufacture or preparation of beverages or their sale for beverage purposes will subject the persons so using or selling them to a fine of not exceeding $5,000 or imprisonment for not more than two years, or both.

This label shall bear the date when affixed, shall be signed in the distiller's name by the distiller or his legal representative, and shall be pasted to the commercial head of the barrel and secured thereto by five tacks, one in each corner and one in the middle of the label. The label will be rectangular in form, 4 by 6 inches, and must be printed in letters easily legible. When the packages bearing such labels are sent out from the distillery proper entries will be made on the distiller's record (52C), and the date of production must be inserted by interlineation in red ink on said record, and like interlineation must be made on the transcript thereof sent to the collector's office. If any spirits bearing such label are for any legitimate reason shipped to and received by a rectifier for rectification, similar entry will be made by interlineation in the dump sheet, Form 122, in the rectifier's record 64 and in the collector's record 39, showing the date of production and also the purpose for which dumped for rectification. In all such cases collectors will cause investigation to be made before permitting the dumping of the spirits in order to satisfy themselves that the spirits are not to be employed in any way in the manufacture of beverage goods. Rectifiers and wholesale liquor dealers will also be required to enter by interlineation in red ink as above, on Book 52, the date of production as to all such pack-

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ages received, and to make similar entries on monthly transcripts, Forms 52A and 52B.

Storekeeper-gaugers, storekeeper-gaugers assigned as gaugers, and deputy collectors will report to their immediate superiors and revenue agents and collectors will report to the Commissioner of Internal Revenue violations of section 15 of the act approved August 10, 1917, and all regulations thereunder.

At spirit houses where it is intended to suspend operations permanently by reason of the fact that beverage goods can not be made, and all distillation can not be completed during the final fermenting period, it is suggested that all fermenting tubs save one might be closed by filing a notice of change in capacity. The one tub remaining open will enable the distiller to utilize more time in completing his distillation, and while he will be held liable for the capacity of the tub remaining open, although no mashing or fermenting is done, it is expected that the accumulation of the spirits in the distillery will obviate assessment.

The same rule as regards the completion of fermentation and distillation applicable to grain and molasses distilleries as set forth herein will be applicable to brandy distilleries. All fermentation for production of beverage brandy must be completed before 11 o'clock p. m. September 8, 1917, and nonbeverage goods fermented for fortification under the exempting provisions of said act after September 8, 1917, must bear the prescribed label before removal from the designated place of deposit. Fruit-brandy distillers producing beverage brandy will immediately proceed on September 10, 1917, to distill the contents of all fermenters the fermentation of which must have been completed prior to 11 p. m. of September 8, 1917.

The decision of the food administrator quoted herein prohibits the fermenting and distilling of any materials for production of beverage brandy after September 8, 1917. Only brandy produced from grapes may therefore be fermented and distilled for fortifying sweet wines under provisions of existing law after that date.

Inasmuch as industrial distilleries established under the act of October 3, 1913, may produce spirits for denaturation only, it will be understood that section 15 of the act approved August 10, 1917, will not be applicable to them.

Any instructions issued prior to the date hereof which conflict herewith in any particular are hereby modified accordingly.

It is expected that further regulations will be issued by the food administrator, and when issued full instructions will be furnished by this office.

David A. Gates,
Acting Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

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(T. D. 2521.)

Application for withdrawal for export, Form 550, revised.

Applications for withdrawal of tobacco, snuff, cigars, and cigarettes for exportation to be made hereafter on Form 550, revised July, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 1, 1917.

To collectors of internal revenue:

Form 550, application for withdrawal for export, has been revised and printed on sheets 8½ by 11 inches, so as to permit of vertical filing in letter-size drawers and eliminate folding and unfolding. A supply of the revised Form 550 has been forwarded each collector. Immediately upon receipt of same you will cause a requisite supply to be distributed to each manufacturer of tobacco, snuff, cigars, and cigarettes in your district who makes shipments in bond without the payment of tax for export, and require all applications for withdrawal filed by such manufacturers during the current month and hereafter to be made on the revised form. This is necessary in order that said form, and also revised Form 94 B (to be sent as soon as received from the Public Printer), with which it is forwarded and which corresponds in size, may hereafter be more easily handled and filed in this office.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

(T. D. 2522.)

Inventories of tax-paid spirits.

Tax-paid distilled spirits held by distillers for owners to be inventoried by owners.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 10, 1917.

SIR: The department is in receipt of your letter of the 1st instant, in which you state that you have received letters from various distillers inquiring whether or not they will be required to make inventory of tax-paid whisky in their possession which is the property of their customers and which they are holding for shipping instructions.

The title to the spirits has in the cases stated passed from the distiller to the purchaser, and the owner of the spirits should be required to furnish an inventory covering such spirits so owned by him on the day the act became effective. It is therefore held that as to tax-paid spirits referred to in your letter the inventory must

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be filed in such cases by the owner. Please see the third paragraph of sample letter to be sent out with inventory A.

The distiller, however, should be notified that he will be required to furnish you with a statement showing the name and address of the owner, the serial number of the packages, and their proof-gallon content of all such spirits held by him the day the act becomes effective. This statement should be used by you to check up the inventories if filed by the owner, or, if none is filed, you should take up by correspondence with the owner the matter of filing inventories, or with the collector of the district in which the owner resides to ascertain whether said spirits have been included in the inventory filed with him.

The distillers should also notify you as soon as any such spirits are actually shipped to the owner, and unless an inventory of such spirits is filed with you, you will forward such statement of the distiller to the collector of the district to which the spirits have been shipped, so that he may require all such spirits to be included in the inventory filed with him by the owner of the spirits.

Spirits actually in transit the day the act becomes effective will be included in the inventory of the purchaser as provided in mimeograph letters 1596 and 1604.

No regauge will be necessary, as the whisky should be inventoried at the actual proof-gallon content as shown by the tax-paid withdrawal gauge.

Respectfully,

W. H. Osborn,
Commissioner of Internal Revenue.

Collector of Internal Revenue, *Lexington, Ky.*

(T. D. 2523.)

Food-control act of August 10, 1917.

Restriction on the distillation of spirits—Executive order of September 2, 1917.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., September 11, 1917.

To collectors of internal revenue and others concerned:

Sections 15 and 16 of the act of August 10, 1917, relative to the food administration, are herewith published for your information and proper action; also Executive order of President Wilson of September 2, 1917, conferring on the Treasury Department and this office the supervision and authority to carry into effect the above-mentioned

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provisions, and also the rules and regulations already promulgated by the President and the United States Food Administrator.

Further regulations are being prepared by this office, which will be issued later.

W. H. OSBORN,
Commissioner of Internal Revenue.

[Public No. 41, 65th Congress—H. R. 4961.]

AN ACT To provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel.

* * * * * * *

SEC. 15. That from and after thirty days from the date of the approval of this act no foods, fruits, food materials, or feeds shall be used in the production of distilled spirits for beverage purposes: *Provided*, That under such rules, regulations, and bonds as the President may prescribe, such materials may be used in the production of distilled spirits exclusively for other than beverage purposes, or for the fortification of pure sweet wines as defined by the act entitled "An act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen. Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof. Any person who willfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding $5,000, or by imprisonment for not more than two years, or both: *Provided further*, That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

SEC. 16. That the President is authorized and directed to commandeer any or all distilled spirits in bond or in stock at the date of the approval of this act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies, or in so far as such redistillation would dispense with the necessity of utilizing products and materials suitable for foods and feeds in the future manufacture of distilled spirits for the purposes herein enumerated. The President shall determine and pay a just compensation for the distilled spirits so commandeered; and if the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum

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as, added to said seventy-five per centum, will make up such amount as will be just compensation for such spirits, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

* * * * * * *

Approved, August 10, 1917.

EXECUTIVE ORDER.

Acting under the authority of Section 2 of the Act of Congress approved August 10, 1917, entitled An Act to provide further for the national security and defense by encouraging the production, conserving the supply and controlling the distribution of food products and fuel, which section reads in part, as follows: "That in carrying out the purposes of this Act the President is authorized * * * to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds;" because the office of the Commissioner of Internal Revenue in the Treasury Department is now regulating the production of distilled spirits through the United States and is in control of the machinery necessary to enforce effectively the provisions of Sections 15 and 16 of the aforesaid Act of August 10, 1917, relating to distilled spirits;

Now, in order more effectively to enforce the provisions of said Act, and to avoid preventable duplication of effort and funds, I hereby direct that the Treasury Department shall henceforth supervise, direct and carry into effect the provisions of Sections 15 and 16 of said Act of August 10, 1917, and exercise the powers and authority therein given to the President, subject to such instructions and regulations as may from time to time be issued by the President. For this purpose the Secretary of the Treasury is hereby authorized to assign such duties to the Commissioner of Internal Revenue, the Internal Revenue officers of the United States, and the Division of Customs, and to employ such additional assistants as he may deem necessary therefor.

The Executive Order dated August 10, 1917, providing for the organization of the United States Food Administration, so far as it is inconsistent herewith, is hereby modified.

WOODROW WILSON.

WASHINGTON, D. C., *2 September, 1917.*

FOOD-CONTROL ACT OF AUGUST 10, 1917.

Decisions and regulations under section 15, relating to the use of food, etc., in the production of distilled spirits for beverage and non-beverage purposes.

DECISIONS.

I. The United States Food Administration has ruled that under the provisions of the act all fermentation must be complete before September 8, 1917, at 11 o'clock p. m. Distillation may be proceeded with thereafter if pursued promptly to completion.

II. The United States Food Administration has ruled that the terms "foods, fruits, food materials, or feeds" in the act include all cereals, tubers, fruits, molasses, grape cheese, apple cheese, fruit parings, cannery refuse, beet-sugar molasses, sour wine, and all other foods, fruits, food materials, or feeds, and the by-products thereof.

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RULES AND REGULATIONS GOVERNING THE USE OF FOOD MATERIALS IN THE PRODUCTION OF DISTILLED SPIRITS FOR OTHER THAN BEVERAGE PURPOSES.

Promulgated by the President under the power conferred by section 15 of the food-control act of August 10, 1917.

I. Distilleries producing alcohol from the foods, fruits, food materials, or feeds for denaturation only, under the act of Congress approved October 3, 1913, will comply with the regulations of the Commissioner of Internal Revenue relating to such distillation and denaturation.

II. All other distilled spirits manufactured for other than beverage purposes from foods, fruits, food materials or feeds after September 9, 1917, when entered into warehouse under the regulations of the Commissioner of Internal Revenue, must bear a printed label, to be provided by the distiller, bearing the following legend:

> These spirits were produced from materials fermented after September 9, 1917. All persons are warned that their use in the manufacturing or preparation of beverages, or their sale for beverage purposes, will subject the persons so using or selling them to a fine of not exceeding $5,000, or imprisonment for not more than two years, or both.

This label shall bear the date when affixed, shall be signed in the distiller's name by the distiller or his legal representative, and shall be pasted to the commercial head of the barrel and secured thereto by five tacks, one in each corner and one in the middle of the label. The label must be rectangular in form, 6 by 4 inches, and must be printed in letters easily legible.

III. Every such distiller shall keep and return a true and complete record of all sales, in such particulars and on such forms as are prescribed by the Commissioner of Internal Revenue.

IV. All persons are hereby forbidden to transfer any such spirits from one container to another, whether rectified in the interval or not, without placing a label upon the new container bearing the same legend as that prescribed in Regulation I, unless such spirits shall have been denatured under the supervision of United States Internal Revenue officers. This regulation shall not apply to containers holding 2 quarts or less intended for sale to the public for nonbeverage purposes through retail dealers.

V. All persons are hereby forbidden to use any distilled spirits manufactured from foods, fruits, food materials, or feeds after September 9, 1917, in manufacturing or preparing beverages, or to sell any such spirits for beverage purposes.

VI. Any violation of these regulations will subject the offender to the penalty provided by the statute, to wit, a fine not exceeding $5,000, or imprisonment for not more than two years, or both.

WOODROW WILSON,
By HERBERT HOOVER,
United States Food Administrator.

Approved:
WOODROW WILSON.

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T. D. 2524.

Estate tax—Inheritance taxes.

State inheritance taxes not deductible under Title II, act of September 8, 1916.—T. D. 2395 of November 17, 1916, revoked.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 10, 1917.

To collectors of internal revenue:

An exhaustive study of the nature of State inheritance taxes has led this office to the conclusion that amounts paid to States on account of inheritance, succession, or legacy taxes are not "such other charges against the estate as are allowed by the laws of the jurisdiction," and accordingly are not deductible in arriving at the amount of Federal estate tax. T. D. 2395 of November 19, 1916, is hereby revoked.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2525.)

Wine bonds.

Instructions relative to the execution of wine bonds covering bonded wineries and bonded storerooms.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 24, 1917.

To collectors of internal revenue and others concerned:

In view of the probable passage in the near future of the pending revenue bill, increasing the rate of taxes on wines, the following instructions, supplemental to D. S. Mim. 1616, dated September 15, 1917, are hereby promulgated:

Bonds Forms 699, 709, and 710 mention specifically an act of Congress approved September 8, 1916, and regulations issued pursuant to said act. Upon the passage of the pending revenue bill collectors will see that new bonds are executed in suitable penal sums to correspond with the increased rates of taxation, with the words "Act of September 8, 1916, and all regulations issued pursuant to said act" stricken out in the printed blanks now furnished for the purpose, and with the substitution therefor of the words "Laws of the United States and regulations issued in pursuance thereof." These bonds, when executed after the passage of the pending revenue measure, will be made retroactive and the printed language thereof so changed by interlineation or addition that the same will relate back to and

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be effective on and after ——— (date the act becomes effective) in the same manner as though executed on said date.

Wherever specific acts of Congress or rates of taxation are mentioned in any other bonds on file in the collector's office relating to the tax on distilled spirits or fermented liquors, necessitating new bonds, collectors will require such new bonds to be executed, with corrections made as indicated above and in the mimeograph named.

ONE BOND MAY COVER SEVERAL BONDED WINERIES OR BONDED STOREROOMS IN THE SAME OR DIFFERENT DISTRICTS.

In case one person, firm, or corporation is the proprietor of two or more bonded wineries or bonded storerooms in the same or in different districts, a single bond may be executed on Form 699 A, which is as follows:

Form 699 A.

Bond of wine maker or proprietor of bonded storeroom.

Know all men by these presents, That ——— ———, of ———, as principal, and ——— ———, as suret—, are held and firmly bound unto the United States of America in the sum of —— thousand dollars, lawful money of the United States, for the payment whereof to the United States we bind ourselves, our heirs, executors, successors, administrators, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this —— day of ———, 19—.

Whereas the above-bounden principal is engaged or intends to engage in business of making and selling domestic wines at bonded wineries and storerooms, namely:

..... No. —, at ———, — District ———.
(Winery or storeroom.)

..... No. —, at ———, — District ———.
(Winery or storeroom.)

..... No. —, at ———, — District ———.
(Winery or storeroom.)

..... No. —, at ———, — District ———.
(Winery or storeroom.)

..... No. —, at ———, — District ———.
(Winery or storeroom.)

..... No. —, at ———, — District ———.
(Winery or storeroom.)

And to remove, under the provisions of existing law relative to the fortification of wine, grape brandy produced at a registered fruit distillery, or to withdraw grape brandy from a special bonded warehouse, and use the same in the fortification of wines.

Now, therefore, the condition of this obligation is such that if the said principal shall fully and faithfully comply with all requirements of all acts of Congress, and regulations issued pursuant to said acts, respecting the production, fortification, storage, sale, removal, or transportation, and the accounting for of all wines (and brandy used in the fortification of wines) hereafter produced or received, or which now remain on said premises, and transportation of brandy to wineries named herein; and if the said principal shall well and truly pay all taxes due on said wines and brandy at the time and in the manner required by law and regulations, then this obligation to be void; otherwise to remain in full force and virtue.

——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, and delivered in the presence of—

——— ———.
——— ———.

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In executing such blanket form of bond a sufficient number of copies will be made by the wine maker so that one copy may be filed with the papers pertaining to each bonded winery or bonded storeroom enumerated in the bond. All copies will be filed with one collector, who will certify as to the accuracy of the copies and will forward same to the collectors interested, who will forward duplicates in all cases to the Commissioner of Internal Revenue, duly certified and approved by them. The wine maker will prepare these bonds with the requisite number of duplicates in typewriting, and will exercise great care to insert the proper name and number of each bonded winery or bonded storeroom in the body thereof.

This bond, Form 699 A, if in a sufficient penal sum not exceeding $200,000, may also be executed by wine makers covering the tax on the brandy used in the fortification of wines, the transportation of brandy to the bonded winery, its use in fortification, the transfer of wines from one bonded premises to another, the tax thereon, and storage.

This bond, if not in the maximum penal sum of $200,000, must be in a sufficient penal sum to cover all outstanding charges for taxes on wines or brandy in storage or in transit and brandy used in fortification.

Wine makers executing this bond will not be required to execute bond Form 256. They must, however, execute Form 605, which is incorporated in bond Form 256, and forward the same with an amended bond on Form 699 A.

DAVID A. GATES,
Acting Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2526.)

Food-control act.

Dilute saccharine liquid derived from sawdust, etc., is a prohibited material for production of distilled spirits for beverage purposes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 25, 1917.

To collectors of internal revenue and others concerned:

The following letter, addressed this day by this office to a correspondent, is published for the information of all concerned:

SIR: Your letter of the 25th instant has been received, in which you desire to be informed as to whether or not, under section 15 of the food-control act approved

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August 10, 1917, T. D. 2520, and the decision of the Food Administrator, approved by the President of the United States, dilute molasses, or, as heretofore designated by this department, dilute saccharine liquid, derived from sawdust, wood waste, pulp, and like bases, is material from which the production of distilled spirits for beverage purposes is prohibited. You state that such material is fermented like any other sugar product and when evaporated may be used for cattle feed.

In reply you are advised that the distilling material derived from the substances in question is received on the distillery premises in the form of a sirup or dilute saccharine liquid containing fermentable sugar, and, in the opinion of this office, is clearly such molasses or sirup as to come within the purview of the statute and regulations in question.

Especial attention is called to the decision of the Food Administrator, which was approved by the President of the United States, expressly prohibiting the use of "molasses," "beet-sugar molasses," "fruit parings," "cannery refuse," etc. It would appear clearly, therefore, that in rendering this decision the Food Administrator, as well as the President, had in mind the materials in regard to which inquiry is made by you. It is held, therefore, that these materials can not be used in making distilled spirits for beverage purposes.

Respectfully,

DAVID A. GATES, *Acting Commissioner of Internal Revenue.*

(T. D. 2527.)

Tincture of iodine.

Extending the use of formula 25, authorized for use in the manufacture of tincture of iodine, U. S. P., to the manufacture of a 3½ per cent tincture of iodine.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1917.

SIR: Your letter of the 24th instant has been received, in which you state that the ——— desires to use formula 25 in the manufacture of a 4 per cent tincture of iodine without the addition of iodide of potassium, they having received a number of requests for a product of such strength.

In regard to the matter you are advised that it is realized that there is a considerable demand from the legitimate medical profession for half strength tincture of iodine, which perhaps may be better adapted to use as an external antiseptic than the U. S. P. tincture, full strength, with the iodide of potassium added. This office will, therefore, assent to the use of alcohol denatured in conformity with formula 25 in the manufacture of a 3½ per cent tincture of iodine without the addition of potassium iodide. It is believed that this will meet all legitimate demands of the trade, and it is impracticable and undesirable from an administrative viewpoint to authorize the use of alcohol denatured with this formula in all varying strengths to meet the views of possible purchasers.

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It will be understood that in the manufacture of a one-half strength tincture of iodine without iodide of potassium from alcohol denatured with formula 25 it will be necessary to add more of the element iodine to bring the same in conformity with these instructions. It will also be borne in mind that from an administrative viewpoint it would be ill-advised to approve formulas consisting entirely or principally of one or more of the component parts of each and every alcoholic medicinal compound which may be manufactured under the U. S. P. standard or otherwise. It is obvious that if such course were adopted, the multiplicity of such formulas would eventually interfere very materially with the administration of the law.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Mr. ——— ———, *Washington, D. C.*

(T. D. 2528.)

Denatured alcohol.

Formula No. 3 for the complete denaturation of alcohol for use as a motor power.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 3, 1917.

GENTLEMEN: Referring to your communication of the 7th ultimo, proposing certain formulas for the denaturation of alcohol to be used as a motor spirit or gasoline substitute in Hawaii, it is noted that you desire to use the formula as a denaturant for alcohol made of refuse material, large quantities of which are going to waste. You state that a gasoline substitute made from this alcohol has been developed and tested and that it is of great importance to the Territory that the vast potential motor power in refuse material be conserved owing to the difficulties of securing gasoline.

In view of the circumstances as set forth, it has been decided to authorize the following formula for alcohol to be used for the purpose mentioned, the same to be designated as Formula 3, completely denatured alcohol: "To each 100 gallons of ethyl alcohol add 5 gallons sulphuric ether, 2 gallons benzine, and 1 gallon pyridine."

This formula may be used by any qualified denaturer.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Messrs. ——— ———, *San Francisco, Cal.*

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(T. D. 2529.)

Estate tax.

Household effects and like personality used by husband and wife in the marriage relation are presumed to be the property of the husband, and, in the absence of sufficient evidence to rebut this presumption, must be returned as a portion of his gross estate.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1917.

To collectors of internal revenue and internal-revenue agents:

In reviewing returns on Form 706 in this office, it is found that oftentimes there are reported no household goods or other miscellaneous personality of that character. This fact is brought to the attention of the examining officer, and in most cases results in the discovery of the existence of such property belonging to the estate of the decedent. In other cases the examining officers have been reporting the substance of the following: "Widow of deceased claims the household effects, etc., as her own separate property."

Statements to the above effect, unexplained, are not sufficient to relieve the estate from returning and paying tax upon the household furniture used by the decedent in the household occupied by himself and wife. Upon the decease of a husband the household goods and other chattels used by husband and wife in the marriage relation are presumed to be the property of the husband. If the wife claims the same as her separate property, she has the burden of establishing that claim.

There are certain situations where the widow's claim will not be questioned, and will consequently relieve the estate from returning the household goods as part of the gross estate of the deceased husband. All that is required in such cases is *sufficient evidence* of the existence of the facts in question. Such situations are as follows: (1) Where the articles of household furniture were owned by the wife prior to marriage; (2) where the wife has purchased the household effects during coverture with her separate funds; (3) where the household effects represent gifts from a third person to the wife individually during coverture.

It is not at all uncommon, however, that the household effects have been purchased by the husband since the marriage and at his death the wife claims that the decedent made her a gift of the various articles during the marriage, although the articles have never left the possession of the husband—i. e., they remain in the household occupied by the husband and wife and are used by them jointly. Such property is presumed to be owned by the husband, and if the wife, or any other person for that matter, claims the household effects as a gift from the deceased the burden of proving the gift rests upon the person asserting it. A gift from husband to wife must be clearly

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established. There must be clear and incontrovertible evidence of the delivery of the property by the husband with the intention of divesting himself of all dominion and control and of vesting title in the wife. The requirements necessary to a valid executed gift must be present. If the gift be in contemplation of death, of course another question would arise.

The following proposition has been announced by the courts and is believed by this office to be sound: To constitute a valid gift there must be an absolute transfer of the property from donor to donee, taking effect immediately, and fully executed by a delivery of the property by the donor, and the acceptance thereof by the donee. It is essential that the transaction should be fully executed by the delivery of the property to the donee, or to some person for him. In several States statutes have been enacted providing that no gift, except by deed or will, shall be valid unless actual possession shall come to and remain with the donee or his agent, and if the donor and donee reside together at the time of the gift, possession by the donee at their place of residence is not a sufficient possession within the meaning of the statute.

The foregoing should be carefully considered when examining officers are investigating the completeness and accuracy of estate-tax returns.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2530.)

Estate tax.

Bonds of domestic corporations owned by nonresident decedents, such bonds being physically situate outside of the United States, are not returnable as a portion of the gross estate of said decedent.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1917.

To collectors of internal revenue and internal-revenue agents:

Section 202 of the revenue act of September 8, 1916, in defining the gross estate, provides that stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States. The holding of this office has been that bonds of a domestic corporation owned and held by a nonresident decedent were likewise deemed property within the United States and taxable as a portion of the gross estate of the decedent.

This question has had careful reconsideration, and it is the opinion of this office that the language of the section of the act above referred to does not evidence the intention of Congress to impose a tax upon bonds of a domestic corporation owned and held by a *nonresident*

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decedent when such bonds are physically situate outside of the United States, Hawaii, or Alaska at the time of the death of the nonresident owner.

It is clear, however, that Congress has the power and evidenced an intention in the act above referred to to impose a tax upon bonds, both foreign and domestic, owned by a *nonresident* decedent, which bonds are physically situate in the United States, Hawaii, or Alaska at the time of the owner's death, and such bonds must be returned as a portion of his gross estate.

It is, of course, clear that bonds, both foreign and domestic, owned by a *resident* are taxable, regardless of where such bonds are situate at the time of the owner's death.

Rulings of this office announced in regulations and Treasury decisions inconsistent with and contrary to the above are hereby revoked.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2531.)

Estate tax.

Interpretation of the provision of section 203 (a) (1) of the act of September 8, 1916, relating to the deductibility of amounts expended for support of dependents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The act of September 8, 1916, section 203 (a) (1), provides that there may be deducted from gross estate amounts which have been expended for "support during the settlement of the estate of those dependent upon the decedent." It is plain that Congress, in enacting this provision, intended that there should be allowed as a deduction from gross estate only the amount *actually* expended by the estate for the support of actual dependents of the decedent. The regulation made in pursuance of this provision requires the existence of three things before the amount claimed as a deduction under this item is allowable: (1) A bona fide disbursement by the executor, (2) for the support of those actually dependent upon the decedent, and (3) in an amount authorized by the local law for that specific purpose.

First. In view of the language of the taxing act, there must be an actual expenditure of money—not a mere delivery to the dependent by the executor of household goods or other miscellaneous personalty of that character. It is obvious that the turning over of furniture and such personalty to the dependent does not contribute to that dependent's support unless the furniture is sold and the proceeds are

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so used. Therefore, provisions in the statutes of the various States to the effect that the widow is entitled to family pictures, wearing apparel, etc., and to certain household goods in lieu of an award, has reference to the widow's exemption and has no application in determining the deductibility of an amount paid for the support of dependents.

Second. The persons for whose support the money is expended must be actually dependent upon the deceased, otherwise the amount (even though actually expended for the support of the widow or children) is not an allowable deduction. If the persons for whose support money is expended have means ample for their support, obviously they are not dependents, and any amounts paid for their support are not deductible. If the alleged dependents are beneficiaries of the estate, it is clear from the wording of the act that the phrase "support during the settlement of the estate" refers to the period elapsing between the date of decedent's death, at which time his contribution to the support of dependent ceases, and the date of the actual delivery of devised property to the beneficiary by the personal representative of deceased. It follows as a natural consequence that when the dependent beneficiaries come into possession of property sufficient for their support and maintenance they cease to be dependents and money expended for their support after such date is not deductible.

Third. In order to be deductible, the amount *actually* expended for the support of *actual* dependents must not exceed the amount which is allowed for the specific purpose by the laws of the State having jurisdiction over the administration of decedent's estate. The amount in all cases will not necessarily equal the amount allowed under the local law. It is not uncommon in the various States that a maximum amount is specified in the statutes to be allowed dependents for their support. In certain States appraisers are appointed by the court to fix an award and judgment is rendered against the executor for the amount arrived at by them. These amounts may exceed what is actually expended for the support of dependents. In that case the excess over actual expenditures for support is not an allowable deduction in determining estate tax.

The following query or its substance is often made to this office: "Will it not be allowable, in making reports of investigations of Form 706, where a deduction is claimed for 'support of decedent's dependents,' to merely establish the fact that appraiser's fixed award which was approved and judgment rendered therefor?" In view of the detailed interpretation of the provision in the act relating to deduction for support of dependents given above, this question is necessarily answered in the negative.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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(T. D. 2532.)

[PUBLIC—NO. 50—65TH CONGRESS.]

[H. R. 4280.]

An Act To provide revenue to defray war expenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.—WAR INCOME TAX.

SECTION 1. That in addition to the normal tax imposed by subdivision (a) of section one of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like normal tax of two per centum upon the income of every individual, a citizen or resident of the United States, received in the calendar year nineteen hundred and seventeen and every calendar year thereafter.

SEC. 2. That in addition to the additional tax imposed by subdivision (b) of section one of such Act of September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like additional tax upon the income of every individual received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, as follows:

One per centum per annum upon the amount by which the total net income exceeds $5,000 and does not exceed $7,500;

Two per centum per annum upon the amount by which the total net income exceeds $7,500 and does not exceed $10,000;

Three per centum per annum upon the amount by which the total net income exceeds $10,000 and does not exceed $12,500;

Four per centum per annum upon the amount by which the total net income exceeds $12,500 and does not exceed $15,000;

Five per centum per annum upon the amount by which the total net income exceeds $15,000 and does not exceed $20,000;

Seven per centum per annum upon the amount by which the total net income exceeds $20,000 and does not exceed $40,000;

Ten per centum per annum upon the amount by which the total net income exceeds $40,000 and does not exceed $60,000;

Fourteen per centum per annum upon the amount by which the total net income exceeds $60,000 and does not exceed $80,000;

Eighteen per centum per annum upon the amount by which the total net income exceeds $80,000 and does not exceed $100,000;

Twenty-two per centum per annum upon the amount by which the total net income exceeds $100,000 and does not exceed $150,000;

Twenty-five per centum per annum upon the amount by which the total net income exceeds $150,000 and does not exceed $200,000;

Thirty per centum per annum upon the amount by which the total net income exceeds $200,000 and does not exceed $250,000;

Thirty-four per centum per annum upon the amount by which the total net income exceeds $250,000 and does not exceed $300,000;

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Thirty-seven per centum per annum upon the amount by which the total net income exceeds $300,000 and does not exceed $500,000;

Forty per centum per annum upon the amount by which the total net income exceeds $500,000 and does not exceed $750,000.

Forty-five per centum per annum upon the amount by which the total net income exceeds $750,000 and does not exceed $1,000,000.

Fifty per centum per annum upon the amount by which the total net income exceeds $1,000,000.

SEC. 3. That the taxes imposed by sections one and two of this Act shall be computed, levied, assessed, collected, and paid upon the same basis and in the same manner as the similar taxes imposed by section one of such Act of September eighth, nineteen hundred and sixteen, except that in the case of the tax imposed by section one of this Act (a) the exemptions of $3,000 and $4,000 provided in section seven of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be, respectively, $1,000 and $2,000, and (b) the returns required under subdivisions (b) and (c) of section eight of such Act as amended by this Act shall be required in the case of net incomes of $1,000 or over, in the case of unmarried persons, and $2,000 or over in the case of married persons, instead of $3,000 or over, as therein provided, and (c) the provisions of subdivision (c) of section nine of such Act, as amended by this Act, requiring the normal tax of individuals on income derived from interest to be deducted and withheld at the source of the income shall not apply to the new two per centum normal tax prescribed in section one of this Act until on and after January first, nineteen hundred and eighteen, and thereafter only one two per centum normal tax shall be deducted and withheld at the source under the provisions of such subdivision (c), and any further normal tax for which the recipient of such income is liable under this Act or such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be paid by such recipient.

SEC. 4. That in addition to the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, there shall be levied, assessed, collected, and paid a like tax of four per centum upon the income received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, by every corporation, joint-stock company or association, or insurance company, subject to the tax imposed by that subdivision of that section; except that if it has fixed its own fiscal year, the tax imposed by this section for the fiscal year ending during the calendar year nineteen hundred and seventeen shall be levied, assessed, collected, and paid only on that proportion of its income for such fiscal year which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year.

The tax imposed by this section shall be computed, levied, assessed, collected, and paid upon the same incomes and in the same manner as the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that for the purpose of the tax imposed by this section the income embraced in a return of a corporation, joint-stock company or association, or insurance company, shall be credited with the amount received as dividends upon the stock or from the

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net earnings of any other corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title.

SEC. 5. That the provisions of this title shall not extend to Porto Rico or the Philippine Islands, and the Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

TITLE II.—WAR EXCESS PROFITS TAX.

SEC. 200. That when used in this title—

The term "corporation" includes joint-stock companies or associations and insurance companies;

The term "domestic" means created under the law of the United States, or of any State, Territory, or District thereof, and the term "foreign" means created under the law of any other possession of the United States or of any foreign country or government;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "taxable year" means the twelve months ending December thirty-first, excepting in the case of a corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year. The first taxable year shall be the year ending December thirty-first, nineteen hundred and seventeen, except that in the case of a corporation or partnership which has fixed its own fiscal year, it shall be the fiscal year ending during the calendar year nineteen hundred and seventeen. If a corporation or partnership, prior to March first, nineteen hundred and eighteen, makes a return covering its own fiscal year, and includes therein the income received during that part of the fiscal year falling within the calendar year nineteen hundred and sixteen, the tax for such taxable year shall be that proportion of the tax computed upon the net income during such full fiscal year which the time from January first, nineteen hundred and seventeen, to the end of such fiscal year bears to the full fiscal year; and

The term "prewar period" means the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, or, if a corporation or partnership was not in existence or an individual was not engaged in a trade or business during the whole of such period, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business.

The terms "trade" and "business" include professions and occupations.

The term "net income" means in the case of a foreign corporation or partnership or a nonresident alien individual, the net income received from sources within the United States.

SEC. 201. That in addition to the taxes under existing law and under this act there shall be levied, assessed, collected, and paid for each taxable year upon the income of every corporation, partnership, or individual, a tax (hereinafter in this title referred to as the tax) equal to the following percentages of the net income:

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Twenty per centum of the amount of the net income in excess of the deduction (determined as hereinafter provided) and not in excess of fifteen per centum of the invested capital for the taxable year;

Twenty-five per centum of the amount of the net income in excess of fifteen per centum and not in excess of twenty per centum of such capital;

Thirty-five per centum of the amount of the net income in excess of twenty per centum and not in excess of twenty-five per centum of such capital;

Forty-five per centum of the amount of the net income in excess of twenty-five per centum and not in excess of thirty-three per centum of such capital; and

Sixty per centum of the amount of the net income in excess of thirty-three per centum of such capital.

For the purpose of this title every corporation or partnership not exempt under the provisions of this section shall be deemed to be engaged in business, and all the trades and businesses in which it is engaged shall be treated as a single trade or business, and all its income from whatever source derived shall be deemed to be received from such trade or business.

This title shall apply to all trades or businesses of whatever description, whether continuously carried on or not, except—

(a) In the case of officers and employees under the United States, or any State, Territory, or the District of Columbia, or any local subdivision thereof, the compensation or fees received by them as such officers or employees;

(b) Corporations exempt from tax under the provisions of section eleven of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, and partnerships and individuals carrying on or doing the same business, or coming within the same description; and

(c) Incomes derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan.

SEC. 202. That the tax shall not be imposed in the case of the trade or business of a foreign corporation or partnership or a nonresident alien individual, the net income of which trade or business during the taxable year is less than $3,000.

SEC. 203. That for the purposes of this title the deduction shall be as follows, except as otherwise in this title provided—

(a) In the case of a domestic corporation, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) $3,000;

(b) In the case of a domestic partnership or of a citizen or resident of the United States, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) $6,000;

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(c) In the case of a foreign corporation or partnership or of a nonresident alien individual, an amount ascertained in the same manner as provided in subdivisions (a) and (b) without any exemption of $3,000 or $6,000.

(d) If the Secretary of the Treasury is unable satisfactorily to determine the average amount of the annual net income of the trade or business during the prewar period, the deduction shall be determined in the same manner as provided in section two hundred and five.

SEC. 204. That if a corporation or partnership was not in existence, or an individual was not engaged in the trade or business, during the whole of any one calendar year during the prewar period, the deduction shall be an amount equal to eight per centum of the invested capital for the taxable year, plus in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

A trade or business carried on by a corporation, partnership, or individual, although formally organized or reorganized on or after January second, nineteen hundred and thirteen, which is substantially a continuation of a trade or business carried on prior to that date, shall, for the purposes of this title, be deemed to have been in existence prior to that date, and the net income and invested capital of its predecessor prior to that date shall be deemed to have been its net income and invested capital.

SEC. 205. (a) That if the Secretary of the Treasury, upon complaint finds either (1) that during the prewar period a domestic corporation or partnership, or a citizen or resident of the United States, had no net income from the trade or business, or (2) that during the prewar period the percentage, which the net income was of the invested capital, was low as compared with the percentage, which the net income during such period of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, was of their invested capital, then the deduction shall be the sum of (1) an amount equal to the same percentage of its invested capital for the taxable year which the average deduction (determined in the same manner as provided in section two hundred and three, without including the $3,000 or $6,000 therein referred to) for such year of representative corporations, partnerships, or individuals, engaged in a like or similar trade or business, is of their average invested capital for such year plus (2) in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

The percentage which the net income was of the invested capital in each trade or business shall be determined by the Commissioner of Internal Revenue, in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the percentage determined by the calendar year ending during such fiscal year shall be used.

(b) The tax shall be assessed upon the basis of the deduction determined as provided in section two hundred and three, but the taxpayer claiming the benefit of this section may at the time of making the return file a claim for abatement of the amount by which the tax so

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assessed exceeds a tax computed upon the basis of the deduction determined as provided in this section. In such event, collection of the part of the tax covered by such claim for abatement shall not be made until the claim is decided, but if in the judgment of the Commissioner of Internal Revenue, the interests of the United States would be jeopardized thereby he may require the claimant to give a bond in such amount and with such sureties as the commissioner may think wise to safeguard such interests, conditioned for the payment of any tax found to be due, with the interest thereon, and if such bond, satisfactory to the commissioner, is not given within such time as he prescribes, the full amount of tax assessed shall be collected and the amount overpaid, if any, shall upon final decision of the application be refunded as a tax erroneously or illegally collected.

SEC. 206. That for the purposes of this title the net income of a corporation shall be ascertained and returned (a) for the calendar years nineteen hundred and eleven and nineteen hundred and twelve upon the same basis and in the same manner as provided in section thirty-eight of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, except that income taxes paid by it within the year imposed by the authority of the United States shall be included; (b) for the calendar year nineteen hundred and thirteen upon the same basis and in the same manner as provided in section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, except that income taxes paid by it within the year imposed by the authority of the United States shall be included, and except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by section II of such Act of October third, nineteen hundred and thirteen, shall be deducted; and (c) for the taxable year upon the same basis and in the same manner as provided in Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, as amended by this Act, except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by Title I of such Act of September eighth, nineteen hundred and sixteen, shall be deducted.

The net income of a partnership or individual shall be ascertained and returned for the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, and for the taxable year, upon the same basis and in the same manner as provided in Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that the credit allowed by subdivision (b) of section five of such Act shall be deducted. There shall be allowed (a) in the case of a domestic partnership the same deductions as allowed to individuals in subdivision (a) of section five of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act; and (b) in the case of a foreign partnership the same deductions as allowed to individuals in subdivision (a) of section six of such Act as amended by this Act.

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SEC. 207. That as used in this title, the term "invested capital" for any year means the average invested capital for the year, as defined and limited in this title, averaged monthly.

As used in this title "invested capital" does not include stocks, bonds (other than obligations of the United States), or other assets, the income from which is not subject to the tax imposed by this title nor money or other property borrowed, and means, subject to the above limitations:

(a) In the case of a corporation or partnership: (1) Actual cash paid in, (2) the actual cash value of tangible property paid in other than cash, for stock or shares in such corporation or partnership, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen, but in no case to exceed the par value of the original stock or shares specifically issued therefor), and (3) paid in or earned surplus and undivided profits used or employed in the business, exclusive of undivided profits earned during the taxable year: *Provided*, That (a) the actual cash value of patents and copyrights paid in for stock or shares in such corporation or partnership, at the time of such payment, shall be included as invested capital, but not to exceed the par value of such stock or shares at the time of such payment; and (b) the good will, trade-marks, trade brands, the franchise of a corporation or partnership, or other intangible property, shall be included as invested capital if the corporation or partnership made payment bona fide therefor specifically as such in cash or tangible property, the value of such good will, trade-mark, trade brand, franchise, or intangible property, not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment; but good will, trade-marks, trade brands, franchise of a corporation or partnership, or other intangible property, bona fide purchased, prior to March third, nineteen hundred and seventeen, for and with interests or shares in a partnership or for and with shares in the capital stock of a corporation (issued prior to March third, nineteen hundred and seventeen), in an amount not to exceed, on March third, nineteen hundred and seventeen, twenty per centum of the total interests or shares in the partnership or of the total shares of the capital stock of the corporation, shall be included in invested capital at a value not to exceed the actual cash value at the time of such purchase, and in case of issue of stock therefor not to exceed the par value of such stock;

(b) In the case of an individual, (1) actual cash paid into the trade or business, and (2) the actual cash value of tangible property paid into the trade or business, other than cash, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen), and (3) the actual cash value of patents, copyrights, good will, trade-marks, trade brands, franchises, or other intangible property, paid into the trade or business, at the time of such payment, if payment was made therefor specifically as such in cash or tangible property, not to exceed the actual cash or actual cash value of the tangible property bona fide paid therefor at the time of such payment,

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In the case of a foreign corporation or partnership or of a non-resident alien individual the term "invested capital" means that proportion of the entire invested capital, as defined and limited in this title, which the net income from sources within the United States bears to the entire net income.

SEC. 208. That in case of the reorganization, consolidation or change of ownership of a trade or business after March third, nineteen hundred and seventeen, if an interest or control in such trade or business of fifty per centum or more remains in control of the same persons, corporations, associations, partnerships, or any of them, then in ascertaining the invested capital of the trade or business no asset transferred or received from the prior trade or business shall be allowed a greater value than would have been allowed under this title in computing the invested capital of such prior trade or business if such asset had not been so transferred or received, unless such asset was paid for specifically as such, in cash or tangible property, and then not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment.

SEC. 209. That in the case of a trade or business having no invested capital or not more than a nominal capital there shall be levied, assessed, collected and paid, in addition to the taxes under existing law and under this Act, in lieu of the tax imposed by section two hundred and one, a tax equivalent to eight per centum of the net income of such trade or business in excess of the following deductions: In the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000; in the case of all other trades or business, no deduction.

SEC. 210. That if the Secretary of the Treasury is unable in any case satisfactorily to determine the invested capital, the amount of the deduction shall be the sum of (1) an amount equal to the same proportion of the net income of the trade or business received during the taxable year as the proportion which the average deduction (determined in the same manner as provided in section two hundred and three, without including the $3,000 or $6,000 therein referred to) for the same calendar year of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, bears to the total net income of the trade or business received by such corporations, partnerships, and individuals, plus (2) in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

For the purpose of this section the proportion between the deduction and the net income in each trade or business shall be determined by the Commissioner of Internal Revenue in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the proportion determined for the calendar year ending during such fiscal year shall be used.

SEC. 211. That every foreign partnership having a net income of $3,000 or more for the taxable year, and every domestic partnership having a net income of $6,000 or more for the taxable year, shall render a correct return of the income of the trade or business for the taxable year, setting forth specifically the gross income for such year, and the deductions allowed in this title. Such returns shall be rendered at the same time and in the same manner as is prescribed

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for income-tax returns under Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act.

SEC. 212. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed, and not inconsistent with the provisions of this title are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed, and all provisions of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, relating to returns and payment of the tax therein imposed, including penalties, are hereby made applicable to the tax imposed by this title.

SEC. 213. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title, and may require any corporation, partnership, or individual, subject to the provisions of this title, to furnish him with such facts, data, and information as in his judgment are necessary to collect the tax imposed by this title.

SEC. 214. That Title II (sections two hundred to two hundred and seven, inclusive) of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy, and the extensions of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, is hereby repealed.

Any amount heretofore or hereafter paid on account of the tax imposed by such Title II, shall be credited toward the payment of the tax imposed by this title, and if the amount so paid exceeds the amount of such tax the excess shall be refunded as a tax erroneously or illegally collected.

Subdivision (1) of section three hundred and one of such Act of September eighth, nineteen hundred and sixteen, is hereby amended so that the rate of tax for the taxable year nineteen hundred and seventeen shall be ten per centum instead of twelve and one-half per centum, as therein provided.

Subdivision (2) of such section is hereby amended to read as follows:

"(2) This section shall cease to be of effect on and after January first, nineteen hundred and eighteen."

TITLE III.—WAR TAX ON BEVERAGES.

SEC. 300. That on and after the passage of this Act there shall be levied and collected on all distilled spirits in bond at that time or that have been or that may be then or thereafter produced in or imported into the United States, except such distilled spirits as are subject to the tax provided in section three hundred and three, in addition to the tax now imposed by law, a tax of $1.10 (or, if withdrawn for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of $2.10) on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn, and collected under the provisions of existing law.

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That in addition to the tax under existing law there shall be levied and collected upon all perfumes hereafter imported into the United States containing distilled spirits, a tax of $1.10 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. Such tax shall be collected by the collector of customs and deposited as internal-revenue collections, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 301. That no distilled spirits produced after the passage of this Act shall be imported into the United States from any foreign country, or from the West Indian Islands recently acquired from Denmark (unless produced from products the growth of such islands, and not then into any State or Territory or District of the United States in which the manufacture or sale of intoxicating liquor is prohibited), or from Porto Rico, or the Philippine Islands. Under such rules, regulations, and bonds as the Secretary of the Treasury may prescribe, the provisions of this section shall not apply to distilled spirits imported for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage.

SEC. 302. That at registered distilleries producing alcohol, or other high-proof spirits, packages may be filled with such spirits reduced to not less than one hundred proof from the receiving cisterns and tax paid without being entered into bonded warehouse. Such spirits may be also transferred from the receiving cisterns at such distilleries, by means of pipe lines, direct to storage tanks in the bonded warehouse and may be warehoused in such storage tanks. Such spirits may be also transferred in tanks or tank cars to general bonded warehouses for storage therein, either in storage tanks in such warehouses or in the tanks in which they were transferred. Such spirits may also be transferred after tax payment from receiving cisterns or warehouse storage tanks to tanks or tank cars and may be transported in such tanks or tank cars to the premises of rectifiers of spirits. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing and transporting of such spirits; the records to be kept and returns to be made; the size and kind of packages and tanks to be used; the marking, branding, numbering and stamping of such packages and tanks; the kinds of stamps, if any, to be used; and the time and manner of paying the tax; the kind of bond and the penal sum of same. The tax prescribed by law must be paid before such spirits are removed from the distillery premises, or from general bonded warehouse in the case of spirits transferred thereto, except as otherwise provided by law.

Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, distilled spirits may hereafter be drawn from receiving cisterns and deposited in distillery warehouses without having affixed to the packages containing the same distillery warehouse stamps, and such packages, when so deposited in warehouse, may be withdrawn therefrom on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

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Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the manufacture, warehousing, withdrawal, and shipment, under the provisions of existing law, of ethyl alcohol for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage, and denatured alcohol, may be exempted from the provisions of section thirty-two hundred and eighty-three, Revised Statutes of the United States.

Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, manufacturers of ethyl alcohol for other than beverage purposes may be granted permission under the provisions of section thirty-two hundred and eighty-five, Revised Statutes of the United States, to fill fermenting tub in a sweet-mash distillery not oftener than once in forty-eight hours.

SEC. 303. That upon all distilled spirits produced in or imported into the United States upon which the tax now imposed by law has been paid, and which, on the day this Act is passed, are held by a retailer in a quantity in excess of fifty gallons in the aggregate, or by any other person, corporation, partnership, or association in any quantity, and which are intended for sale, there shall be levied, assessed, collected, and paid a tax of $1.10 (or, if intended for sale for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of $2.10) on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon: *Provided*, That the tax on such distilled spirits in the custody of a court of bankruptcy in insolvency proceedings on June first, nineteen hundred and seventeen, shall be paid by the person to whom the court delivers such distilled spirits at the time of such delivery, to the extent that the amount thus delivered exceeds the fifty gallons hereinbefore provided.

SEC. 304. That in addition to the tax now imposed or imposed by this Act on distilled spirits there shall be levied, assessed, collected, and paid a tax of 15 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines hereafter rectified, purified, or refined in such manner, and on all mixtures hereafter produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section thirty-two hundred and forty-four, Revised Statutes, as amended, and on all such articles in the possession of the rectifier on the day this Act is passed: *Provided*, That this tax shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics.

When the process of rectification is completed and the tax prescribed by this section has been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the tax has theretofore been paid.

The tax imposed by this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, nor to the mixing

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and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: *Provided*, That such blended whiskies shall be exempt from tax under this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

All distilled spirits taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits shall be paid, under such rules, regulations, and bonds as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Any person violating any of the provisions of this section shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than two years. He shall, in addition, be liable to double the tax evaded together with the tax, to be collected by assessment or on any bond given.

SEC. 305. That hereafter collectors of internal revenue shall not furnish wholesale liquor dealer's stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, transfer brandy, export tobacco, export cigars, export oleomargarine and export fermented liquor stamps.

SEC. 306. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person, corporation, partnership, or association on whose premises the installation is required. Any such person, corporation, partnership, or association refusing or neglecting to install such apparatus when so required by the commissioner shall not be permitted to conduct business on such premises.

SEC. 307. That on and after the passage of this Act there shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half per centum or more of alcohol, brewed or manufactured and sold, or stored in warehouse,

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or removed for consumption or sale, within the United States, by whatever name such liquors may be called, in addition to the tax now imposed by law, a tax of $1.50 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law.

SEC. 308. That from and after the passage of this Act taxable fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial distillery of either class established under the Act of October third, nineteen hundred and thirteen, to be used as distilling material, and the residue from such distillation, containing less than one-half of one per centum of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner of Internal Revenue shall deem proper, and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue.

SEC. 309. That upon all still wines, including vermuth, and upon all champagne and other sparkling wines, liqueurs, cordials, artificial or imitation wines or compounds sold as wine, produced in or imported into the United States, and hereafter removed from the custom-house, place of manufacture, or from bonded premises for sale or consumption, there shall be levied and collected, in addition to the tax now imposed by law upon such articles, a tax equal to such tax, to be levied, collected, and paid under the provisions of existing law.

SEC. 310. That upon all articles specified in section three hundred and nine upon which the tax now imposed by law has been paid and which are on the day this Act is passed held in excess of twenty-five gallons in the aggregate of such articles and intended for sale, there shall be levied, collected, and paid a tax equal to the tax imposed by such section.

SEC. 311. That upon all grape brandy or wine spirits withdrawn by a producer of wines from any fruit distillery or special bonded warehouse under subdivision (c) of section four hundred and two of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid in addition to the tax therein imposed, a tax equal to double such tax, to be assessed, collected, and paid under the provisions of existing law.

SEC 312. That upon all sweet wines held for sale by the producer thereof upon the day this Act is passed there shall be levied, assessed, collected, and paid an additional tax equivalent to 10 cents per proof gallon upon the grape brandy or wine spirits used in the fortification of such wine, and an additional tax of 20 cents per proof gallon shall be levied, assessed, collected, and paid upon all grape brandy or wine spirits withdrawn by a producer of sweet wines for the purpose of fortifying such wines and not so used prior to the passage of this Act.

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SEC. 313. That there shall be levied, assessed, collected, and paid—

(a) Upon all prepared sirups or extracts (intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if so sold for not more than $1.30 per gallon, a tax of 5 cents per gallon; if so sold for more than $1.30 and not more than $2 per gallon, a tax of 8 cents per gallon; if so sold for more than $2 and not more than $3 per gallon, a tax of 10 cents per gallon; if so sold for more than $3 and not more than $4 per gallon, a tax of 15 cents per gallon; and if so sold for more than $4 per gallon, a tax of 20 cents per gallon; and

(b) Upon all unfermented grape juice, soft drinks, or artificial mineral waters (not carbonated), and fermented liquors containing less than one-half per centum of alcohol, sold by the manufacturer, producer, or importer thereof, in bottles or other closed containers, and upon all ginger ale, root beer, sarsaparilla, pop, and other carbonated waters or beverages, manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, a tax of 1 cent per gallon; and

(c) Upon all natural mineral waters or table waters, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon, a tax of 1 cent per gallon.

SEC. 314. That each such manufacturer, producer, bottler, or importer shall make monthly returns under oath to the collector of internal revenue for the district in which is located the principal place of business, containing such information necessary for the assessment of the tax, and at such times and in such manner, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

SEC. 315. That upon all carbonic acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks) sold by the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, and paid a tax of 5 cents per pound. Such tax shall be paid by the purchaser to the vendor thereof and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section five hundred and three.

TITLE IV.—WAR TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF.

SEC. 400. That upon cigars and cigarettes, which shall be manufactured and sold, or removed for consumption or sale, there shall be levied and collected, in addition to the taxes now imposed by existing law, the following taxes, to be paid by the manufacturer or importer thereof: (a) on cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 25 cents per thousand; (b) on cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at 4 cents or more each, and not more than 7 cents each, $1 per thousand; (c) if manufactured or imported to retail at more than 7 cents each and not more than 15 cents each, $3 per thousand; (d) if manufactured or imported to retail at more than 15 cents each and not more than

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20 cents each, $5 per thousand; (e) if manufactured or imported to retail at more than 20 cents each, $7 per thousand: *Provided*, That the word "retail" as used in this section shall mean the ordinary retail price of a single cigar, and that the Commissioner of Internal Revenue may, by regulation, require the manufacturer or importer to affix to each box or container a conspicuous label indicating by letter the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on said box or container; (f) on ciagarettes made of tobacco, or any substitute therefor, made in or imported into the United States, and weighing not more than three pounds per thousand, 80 cents per thousand; weighing more than three pounds per thousand, $1.20 per thousand.

Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or use, in packages or parcels containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or use under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the custom-house before they are withdrawn therefrom.

SEC. 401. That upon all tobacco and snuff hereafter manufactured and sold, or removed for consumption or use, there shall be levied and collected, in addition to the tax now imposed by law upon such articles, a tax of 5 cents per pound, to be levied, collected, and paid under the provisions of existing law.

In addition to the packages provided for under existing law, manufactured tobacco and snuff may be put up and prepared by the manufacturer for sale or consumption, in packages of the following description: Packages containing one-eighth, three-eighths, five-eighths, seven-eighths, one and one-eighth, one and three-eighths, one and five-eighths, one and seven-eighths, and five ounces.

SEC. 402. That sections four hundred, four hundred and one, and four hundred and four, shall take effect thirty days after the passage of this Act: *Provided*, That after the passage of this Act and before the expiration of the aforesaid thirty days, cigarettes and manufactured tobacco and snuff may be put up in the packages now provided for by law or in the packages provided for in sections four hundred and four hundred and one.

SEC. 403. That there shall also be levied and collected, upon all manufactured tobacco and snuff in excess of one hundred pounds or upon cigars or cigarettes in excess of one thousand, which were manufactured or imported, and removed from factory or custom-house prior to the passage of this Act, bearing tax-paid stamps affixed to such articles for the payment of the taxes thereon, and which are, on the day after this Act is passed, held and intended for sale by any person, corporation, partnership, or association, and

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upon all manufactured tobacco, snuff, cigars, or cigarettes, removed from factory or customs house after the passage of this Act but prior to the time when the tax imposed by section four hundred or section four hundred and one upon such articles takes effect, an additional tax equal to one-half the tax imposed by such sections upon such articles.

SEC. 404. That there shall be levied, assessed, and collected upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and intended for use by the smoker in making cigarettes the following taxes: On each package, book, or set, containing more than twenty-five but not more than fifty papers, one-half of 1 cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, 1 cent for each one hundred papers or fractional part thereof; and upon tubes, 2 cents for each one hundred tubes or fractional part thereof.

TITLE V.—WAR TAX ON FACILITIES FURNISHED BY PUBLIC UTILITIES, AND INSURANCE.

SEC. 500. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid (a) a tax equivalent to three per centum of the amount paid for the transportation by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water of property by freight consigned from one point in the United States to another; (b) a tax of 1 cent for each 20 cents, or fraction thereof, paid to any person, corporation, partnership, or association, engaged in the business of transporting parcels or packages by express over regular routes between fixed terminals, for the transportation of any package, parcel, or shipment by express from one point in the United States to another: *Provided*, That nothing herein contained shall be construed to require the carrier collecting such tax to list separately in any bill of lading, freight receipt, or other similar document, the amount of the tax herein levied, if the total amount of the freight and tax be therein stated; (c) a tax equivalent to eight per centum of the amount paid for the transportation of persons by rail or water, or by any form of mechanical motor power on a regular established line when in competition with carriers by rail or water, from one point in the United States to another or to any point in Canada or Mexico, where the ticket therefor is sold or issued in the United States, not including the amount paid for commutation or season tickets for trips less than thirty miles, or for transportation the fare for which does not exceed 35 cents, and a tax equivalent to ten per centum of the amount paid for seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels. If a mileage book used for such transportation or accommodation has been purchased before this section takes effect, or if cash fare be paid, the tax imposed by this section shall be collected from the person presenting the mileage book, or paying the cash fare, by the conductor or other agent, when presented for such transportation or accommodation, and the amount so collected shall be paid to the United States in such manner and at such times as the Commissioner of Internal Revenue, with the approval

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of the Secretary of the Treasury, may prescribe; if a ticket (other than a mileage book) is bought and partially used before this section goes into effect it shall not be taxed, but if bought but not so used before this section takes effect, it shall not be valid for passage until the tax has been paid and such payment evidenced on the ticket in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe; (d) a tax equivalent to five per centum of the amount paid for the transportation of oil by pipe line; (e) a tax of 5 cents upon each telegraph, telephone, or radio, dispatch, message, or conversation, which originates within the United States, and for the transmission of which a charge of 15 cents or more is imposed: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons, corporations, partnerships, or associations shall be used for the transmission of such dispatch, message, or conversation.

SEC. 501. That the taxes imposed by section five hundred shall be paid by the person, corporation, partnership, or association paying for the services or facilities rendered.

In case such carrier does not, because of its ownership of the commodity transported, or for any other reason, receive the amount which as a carrier it would otherwise charge, such carrier shall pay a tax equivalent to the tax which would be imposed upon the transportation of such commodity if the carrier received payment for such transportation: *Provided*, That in case of a carrier which on May first, nineteen hundred and seventeen, had no rates or tariffs on file with the proper Federal or State authority, the tax shall be computed on the basis of the rates or tariffs of other carriers for like services as ascertained and determined by the Commissioner of Internal Revenue: *Provided further*, That nothing in this or the preceding section shall be construed as imposing a tax (a) upon the transportation of any commodity which is necessary for the use of the carrier in the conduct of its business as such and is intended to be so used or has been so used; or (b) upon the transportation of company material transported by one carrier, which constitutes a part of a railroad system, for another carrier which is also a part of the same system.

SEC. 502. That no tax shall be imposed under section five hundred upon any payment received for services rendered to the United States, or any State, Territory, or the District of Columbia. The right to exemption under this section shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

SEC. 503. That each person, corporation, partnership, or association receiving any payments referred to in section five hundred shall collect the amount of the tax, if any, imposed by such section from the person, corporation, partnership, or association making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected and the taxes imposed upon it under paragraph two of section five hundred and one to the collector of internal revenue of the district in which the principal office or place of business is located. Such returns shall contain such information, and be made in such manner, as the Commissioner of Internal

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Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

SEC. 504. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid the following taxes on the issuance of insurance policies:

(a) Life insurance: A tax equivalent to 8 cents on each $100 or fractional part thereof of the amount for which any life is insured under any policy of insurance, or other instrument, by whatever name the same is called: *Provided*, That on all policies for life insurance only by which a life is insured not in excess of $500, issued on the industrial or weekly-payment plan of insurance, the tax shall be forty per centum of the amount of the first weekly premium: *Provided further*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

(b) Marine, inland, and fire insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or other instrument by whatever name the same is called whereby insurance is made or renewed upon property of any description (including rents or profits), whether against peril by sea or inland waters, or by fire or lightning, or other peril: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

(c) Casualty insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or obligation of the nature of indemnity for loss, damage, or liability (except bonds taxable under subdivision two of schedule A of Title VIII) issued or executed or renewed by any person, corporation, partnership, or association, transacting the business of employer's liability, workmen's compensation, accident, health, tornado, plate glass, steam boiler, elevator, burglary, automatic sprinkler, automobile, or other branch of insurance (except life insurance, and insurance described and taxed in the preceding subdivision): *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

(d) Policies issued by any person, corporation, partnership, or association, whose income is exempt from taxation under Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, shall be exempt from the taxes imposed by this section.

SEC. 505. That every person, corporation, partnership, or association, issuing policies of insurance upon the issuance of which a tax is imposed by section five hundred and four, shall, within the first fifteen days of each month, make a return under oath, in duplicate, and pay such tax to the collector of internal revenue of the district in which the principal office or place of business of such person, corporation, partnership, or association is located. Such returns shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

TITLE VI.—WAR EXCISE TAXES.

SEC. 600. That there shall be levied, assessed, collected, and paid—

(a) Upon all automobiles, automobile trucks, automobile wagons, and motorcycles, sold by the manufacturer, producer, or importer,

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a tax equivalent to three per centum of the price for which so sold; and

(b) Upon all piano players, graphophones, phonographs, talking machines, and records used in connection with any musical instrument, piano player, graphophone, phonograph, or talking machine, sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold; and

(c) Upon all moving-picture films (which have not been exposed) sold by the manufacturer or importer a tax equivalent to one-fourth of 1 cent per linear foot; and

(d) Upon all positive moving-picture films (containing a picture ready for projection) sold or leased by the manufacturer, producer, or importer, a tax equivalent to one-half of 1 cent per linear foot; and

(e) Upon any article commonly or commercially known as jewelry, whether real or imitation, sold by the manufacturer, producer, or importer thereof, a tax equivalent to three per centum of the price for which so sold; and

(f) Upon all tennis rackets, golf clubs, baseball bats, lacrosse sticks, balls of all kinds, including baseballs, foot balls, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games, except playing cards and children's toys and games, sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold; and

(g) Upon all perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet soaps and powders, or any similar substance, article, or preparation by whatsoever name known or distinguished, upon all of the above which are used or applied or intended to be used or applied for toilet purposes, and which are sold by the manufacturer, importer, or producer, a tax equivalent to two per centum of the price for which so sold; and

(h) Upon all pills, tablets, powders, tinctures, troches or lozenges, sirups, medicinal cordials or bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters (except those taxed under section three hundred and thirteen of this Act), essences, spirits, oils, and all medicinal preparations, compounds, or compositions whatsoever, the manufacturer or producer of which claims to have any private formula, secret, or occult art for making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or trade-mark, or which, if prepared by any formula, published or unpublished, are held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics for any disease, diseases, or affection whatever affecting the human or animal body, and which are sold by the manufacturer, producer, or importer, a tax equivalent to two per centum of the price for which so sold; and

(i) Upon all chewing gum or substitute therefor sold by the manufacturer, producer, or importer, a tax equivalent to two per centum of the price for which so sold; and

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(j) Upon all cameras sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold.

SEC. 601. That each manufacturer, producer, or importer of any of the articles enumerated in section six hundred shall make monthly returns under oath in duplicate and pay the taxes imposed on such articles by this title to the collector of internal revenue for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

SEC. 602. That upon all articles enumerated in subdivisions (a), (b), (e), (f), (g), (h), (i), or (j) of section six hundred, which on the day this Act is passed are held and intended for sale by any person, corporation, partnership, or association, other than (1) a retailer who is not also a wholesaler, or (2) the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, and paid a tax equivalent to one-half the tax imposed by each such subdivision upon the sale of the articles therein enumerated. This tax shall be paid by the person, corporation, partnership, or association so holding such articles.

The taxes imposed by this section shall be assessed, collected, and paid in the same manner as provided in section ten hundred and two in the case of additional taxes upon articles upon which the tax imposed by existing law has been paid.

Nothing in this section shall be construed to impose a tax upon articles sold and delivered prior to May ninth, nineteen hundred and seventeen, where the title is reserved in the vendor as security for the payment of the purchase money.

SEC. 603. That on the day this Act takes effect, and thereafter on July first in each year, and also at the time of the original purchase of a new boat by a user, if on any other date than July first, there shall be levied, assessed, collected, and paid upon the use of yachts, pleasure boats, power boats, and sailing boats, of over five net tons, and motor boats with fixed engines, not used exclusively for trade or national defense, or not built according to plans and specifications approved by the Navy Department, an excise tax to be based on each yacht or boat, at rates as follows: Yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over five net tons, length not over fifty feet, 50 cents for each foot, length over fifty feet and not over one hundred feet, $1 for each foot, length over one hundred feet, $2 for each foot; motor boats of not over five net tons with fixed engines, $5.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, the measurement of over-all length shall govern.

In the case of a tax imposed at the time of the original purchase of a new boat on any other date than July first, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months, including the month of sale, remaining prior to the following July first.

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TITLE VII.—WAR TAX ON ADMISSIONS AND DUES.

SEC. 700. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid (a) a tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission: *Provided*, That the tax on admission of children under twelve years of age where an admission charge for such children is made shall in every case be 1 cent; and (b) in the case of persons (except bona fide employees, municipal officers on official business, and children under twelve years of age) admitted free to any place at a time when and under circumstances under which an admission charge is made to other persons of the same class, a tax of 1 cent for each 10 cents or fraction thereof of the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted; and (c) a tax of 1 cent for each 10 cents or fraction thereof paid for admission to any public performance for profit at any cabaret or other similar entertainment to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be computed under rules prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, such tax to be paid by the person paying for such refreshment, service, or merchandise. In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement there shall be levied, assessed, collected, and paid a tax equivalent to ten per centum of the amount for which a similar box or seat is sold for performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder. These taxes shall not be imposed in the case of a place the maximum charge for admission to which is 5 cents, or in the case of shows, rides, and other amusements, (the maximum charge for admission to which is 10 cents) within outdoor general amusement parks, or in the case of admissions to such parks.

No tax shall be levied under this title in respect to any admissions all the proceeds of which inure exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, or admissions to agricultural fairs none of the profits of which are distributed to stockholders or members of the association conducting the same.

The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

SEC. 701. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid, a tax equivalent to ten per centum of any amount paid as dues or membership fees (including initiation fees), to any social, athletic, or sporting club or organization, where such dues or fees are in excess of $12 per year; such taxes to be paid by the person paying such dues or fees: *Provided*, That there shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal beneficiary society, order, or association, operating under the lodge

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system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

SEC. 702. That every person, corporation, partnership, or association (a) receiving any payments for such admission, dues, or fees, shall collect the amount of the tax imposed by section seven hundred or seven hundred and one from the person making such payments, or (b) admitting any person free to any place for admission to which a charge is made shall collect the amount of the tax imposed by section seven hundred from the person so admitted, and (c) in either case shall make returns and payments of the amount so collected, at the same time and in the same manner as provided in section five hundred and three of this Act.

TITLE VIII.—WAR STAMP TAXES.

SEC. 800. That on and after the first day of December, nineteen hundred and seventeen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person, corporation, partnership, or association who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule.

SEC. 801. That there shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power, when issued in the exercise of a strictly governmental, taxing, or municipal function; or stocks and bonds issued by cooperative building and loan associations which are organized and operated exclusively for the benefit of their members and make loans only to their shareholders, or by mutual ditch or irrigating companies.

SEC. 802. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section eight hundred and four;

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Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

SEC. 803. That whoever—

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeit stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article,

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, in the discretion of the court, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

SEC. 804. That whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person, corporation, partnership, or association, using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner of Internal Revenue may prescribe such other method for the cancellation of such stamps as he may deem expedient.

SEC. 805. (a) That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

(b) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to procure any of the stamps provided for in this title by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of January,

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nineteen hundred and eighteen, except as to imprinted stamps furnished under contract, authorized by the Commissioner of Internal Revenue.

(c) All internal-revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

SEC. 806. That the Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

SEC. 807. That the collectors of the several districts shall furnish without prepayment to any assistant treasurer or designated depositary of the United States located in their respective collection districts a suitable quantity of adhesive stamps for sale. In such cases the collector may require a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps so furnished, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. The Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

SCHEDULE A.—STAMP TAXES.

1. Bonds of indebtedness: Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and seventeen, by any person, corporation, partnership, or association, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

2. Bonds, indemnity and surety: Bonds for indemnifying any person, corporation, partnership, or corporation who shall have become bound or engaged as surety, and all bonds for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents: *Provided*, That where a premium is charged for the execution of such bond the tax shall be paid at the rate of one per centum on each dollar or fractional part thereof of the premium charged: *Provided further*, That policies of

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reinsurance shall be exempt from the tax imposed by this subdivision.

3. Capital stock, issue: On each original issue, whether on organization or reorganization, of certificates of stock by any association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That where capital stock is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of $100 per share, in which case the tax shall be 5 cents on each $100 of actual value or fraction thereof.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock or not, on each $100 of face value or fraction thereof, 2 cents, and where such shares of stock are without par value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of $100 per share, in which case the tax shall be 2 cents on each $100 of actual value or fraction thereof; *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stanp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons who shall make any such sale, or who shall in pursuance of any such sale deliver any stock or evidence of the sale of any stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

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5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell, including so-called transferred or scratch sales, any products or merchandise at any exchange, or board of trade, or other similar place, for future delivery, for each $100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional $100 or fractional part thereof in excess of $100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing house association but shall be made for the sole purpose of enabling such clearing house association to adjust and balance the accounts of the members of said clearing house association on their several contracts. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

6. Drafts or checks payable otherwise than at sight or on demand, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100, 2 cents; and for each additional $100 or fractional part thereof, 2 cents.

7. Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof 50 cents:

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Provided, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

8. Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding $100 in value, 25 cents; exceeding $100 and not exceeding $500 in value, 50 cents; exceeding $500 in value, $1.

9. Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

10. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5: *Provided*, That such passage tickets, costing $10 or less, shall be exempt from taxation.

11. Proxy for voting at any election for officers, or meeting for the transaction of business, of any incorporated company or association, except religious, educational, charitable, fraternal, or literary socities, or public cemeteries, 10 cents.

12. Power of attorney granting authority to do or perform some act for or in behalf of the grantor, which authority is not otherwise vested in the grantee, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States or from any State for pensions, back pay, bounty, or for property lost in the military or naval service or upon powers of attorney required in bankruptcy cases.

13. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, after the passage of this Act, a tax of 5 cents per pack in addition to the tax imposed under existing law.

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

Title IX.—War Estate Tax.

Sec. 900. That in addition to the tax imposed by section two hundred and one of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, as amended—

(a) A tax equal to the following percentages of its value is hereby imposed upon the transfer of each net estate of every decedent dying after the passage of this Act, the transfer of which is taxable under such section (the value of such net estate to be determined as provided in Title II of such Act of September eighth, nineteen hundred and sixteen):

One-half of one per centum of the amount of such net estate not in excess of $50,000;

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One per centum of the amount by which such net estate exceeds $50,000 and does not exceed $150,000;

One and one-half per centum of the amount by which such net estate exceeds $150,000 and does not exceed $250,000;

Two per centum of the amount by which such net estate exceeds $250,000 and does not exceed $450,000;

Two and one-half per centum of the amount by which such net estate exceeds $450,000 and does not exceed $1,000,000;

Three per centum of the amount by which such net estate exceeds $1,000,000 and does not exceed $2,000,000;

Three and one-half per centum of the amount by which such net estate exceeds $2,000,000 and does not exceed $3,000,000;

Four per centum of the amount by which such net estate exceeds $3,000,000 and does not exceed $4,000,000;

Four and one-half per centum of the amount by which such net estate exceeds $4,000,000 and does not exceed $5,000,000;

Five per centum of the amount by which such net estate exceeds $5,000,000 and does not exceed $8,000,000;

Seven per centum of the amount by which such net estate exceeds $8,000,000 and does not exceed $10,000,000; and

Ten per centum of the amount by which such net estate exceeds $10,000,000.

SEC. 901. That the tax imposed by this title shall not apply to the transfer of the net estate of any decedent dying while serving in the military or naval forces of the United States, during the continuance of the war in which the United States is now engaged, or if death results from injuries received or disease contracted in such service, within one year after the termination of such war. For the purposes of this section the termination of the war shall be evidenced by the proclamation of the President.

TITLE X.—ADMINISTRATIVE PROVISIONS.

SEC. 1000. That there shall be levied, collected, and paid in the United States, upon articles coming into the United States from the West Indian Islands acquired from Denmark, a tax equal to the internal-revenue tax imposed in the United States upon like articles of domestic manufacture; such articles shipped from said islands to the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of said islands: *Provided*, That there shall be levied, collected, and paid in said islands, upon articles imported from the United States, a tax equal to the internal-revenue tax imposed in said islands upon like articles there manufactured; and such articles going into said islands from the United States shall be exempt from payment of any tax imposed by the internal-revenue laws of the United States.

SEC. 1001. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person, corporation, partnership, or association liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

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SEC. 1002. That where additional taxes are imposed by this Act upon articles or commodities, upon which the tax imposed by existing law has been paid, the person, corporation, partnership, or association required by this Act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this Act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 1003. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided, the tax shall be collected in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may prescribe. All administrative and penalty provisions of Title VIII of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner of Internal Revenue determines or prescribes shall be paid by stamp.

SEC. 1004. That whoever fails to make any return required by this Act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this Act or fails to collect or truly to account for and pay over any such tax, shall be subject to a penalty of not more than $1,000, or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected, in any case in which the punishment is not otherwise specifically provided.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

SEC. 1006. That where the rate of tax imposed by this Act, payable by stamps, is an increase over previously existing rates, stamps on hand in the collectors' offices and in the Bureau of Internal Revenue may continue to be used until the supply on hand is exhausted, but shall be sold and accounted for at the rates provided by this Act, and assessment shall be made against manufacturers and other taxpayers having such stamps on hand on the day this Act takes effect for the difference between the amount paid for such stamps and the tax due at the rates provided by this Act.

SEC. 1007. That (a) if any person, corporation, partnership, or association has prior to May ninth, nineteen hundred and seventeen, made a bona fide contract with a dealer for the sale, after the tax takes effect, of any article (or, in the case of moving picture films, such a contract with a dealer, exchange, or exhibitor, for the sale or lease thereof) upon which a tax is imposed under Title III, IV, or VI, or under subdivision thirteen of Schedule A of Title VIII, or under this section, and (b) if such contract does not permit the adding of the whole of such tax to the amount to be paid under such contract, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so

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much of such tax as is not so permitted to be added to the contract price.

The taxes payable by the vendee or lessee under this section shall be paid to the vendor or lessor at the time the sale or lease is consummated, and collected, returned, and paid to the United States by such vendor or lessor in the same manner as provided in section five hundred and three.

The term "dealer" as used in this section includes a vendee who purchases any article with intent to use it in the manufacture or production of another article intended for sale.

SEC. 1008. That in the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

SEC. 1009. That the Secretary of the Treasury, under rules and regulations prescribed by him, shall permit taxpayers liable to income and excess profits taxes to make payments in advance in installments or in whole of an amount not in excess of the estimated taxes which will be due from them, and upon determination of the taxes actually due any amount paid in excess shall be refunded as taxes erroneously collected: *Provided*, That when payment is made in installments at least one-fourth of such estimated tax shall be paid before the expiration of thirty days after the close of the taxable year, at least an additional one-fourth within two months after the close of the taxable year, at least an additional one-fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment: *Provided further*, That the Secretary of the Treasury, under rules and regulations prescribed by him, may allow credit against such taxes so paid in advance of an amount not exceeding three per centum per annum calculated upon the amount so paid from the date of such payment to the date now fixed by law for such payment; but no such credit shall be allowed on payments in excess of taxes determined to be due, nor on payments made after the expiration of four and one-half months after the close of the taxable year. All penalties provided by existing law for failure to pay tax when due are hereby made applicable to any failure to pay the tax at the time or times required in this section.

SEC. 1010. That under rules and regulations prescribed by the Secretary of the Treasury, collectors of internal revenue may receive, at par and accrued interest, certificates of indebtedness issued under section six of the Act entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes," approved April twenty-fourth, nineteen hundred and seventeen, and any subsequent Act or Acts, and uncertified checks in payment of income and excess-profits taxes, during such time and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

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TITLE XI.—POSTAL RATES.

SEC. 1100. That the rate of postage on all mail matter of the first class, except postal cards, shall thirty days after the passage of this Act be, in addition to the existing rate, 1 cent for each ounce or fraction thereof: *Provided*, That the rate of postage on drop letters of the first class shall be 2 cents an ounce or fraction thereof. Postal cards, and private mailing or post cards when complying with the requirements of existing law, shall be transmitted through the mails at 1 cent each in addition to the existing rate.

That letters written and mailed by soldiers, sailors, and marines assigned to duty in a foreign country engaged in the present war may be mailed free of postage, subject to such rules and regulations as may be prescribed by the Postmaster General.

SEC. 1101. That on and after July first, nineteen hundred and eighteen, the rates of postage on publications entered as second-class matter (including sample copies to the extent of ten per centum of the weight of copies mailed to subscribers during the calendar year) when sent by the publisher thereof from the post office of publication or other post office, or when sent by a news agent to actual subscribers thereto, or to other news agents for the purpose of sale:

(a) In the case of the portion of such publication devoted to matter other than advertisements, shall be as follows: (1) On and after July first, nineteen hundred and eighteen, and until July first, nineteen hundred and nineteen, 1¼ cents per pound or fraction thereof; (2) on and after July first, nineteen hundred and nineteen, 1½ cents per pound or fraction thereof.

(b) In the case of the portion of such publication devoted to advertisements the rates per pound or fraction thereof for delivery within the several zones applicable to fourth-class matter shall be as follows (but where the space devoted to advertisements does not exceed five per centum of the total space, the rate of postage shall be the same as if the whole of such publication was devoted to matter other than advertisements): (1) On and after July first, nineteen hundred and eighteen, and until July first, nineteen hundred and nineteen, for the first and second zones, 1¼ cents; for the third zone, 1½ cents; for the fourth zone, 2 cents; for the fifth zone, 2¼ cents; for the sixth zone, 2½ cents; for the seventh zone, 3 cents; for the eighth zone, 3¼ cents; (2) on and after July first, nineteen hundred and nineteen, and until July first, nineteen hundred and twenty, for the first and second zones, 1½ cents; for the third zone, 2 cents; for the fourth zone, 3 cents; for the fifth zone 3½ cents; for the sixth zone, 4 cents; for the seventh zone, 5 cents; for the eighth zone, 5½ cents; (3) on and after July first, nineteen hundred and twenty, and until July first, nineteen hundred and twenty-one, for the first and second zones, 1¾ cents; for the third zone, 2½ cents; for the fourth zone, 4 cents; for the fifth zone, 4¾ cents; for the sixth zone, 5½ cents; for the seventh zone, 7 cents; for the eighth zone, 7¾ cents; (4) on and after July first, nineteen hundred and twenty-one, for the first and second zones, 2 cents; for the third zone, 3 cents; for the fourth zone, 5 cents; for the fifth zone, 6 cents; for the sixth zone, 7 cents; for the seventh zone, 9 cents; for the eighth zone, 10 cents;

(c) With the first mailing of each issue of each such publication, the publisher shall file with the postmaster a copy of such issue,

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together with a statement containing such information as the Postmaster General may prescribe for determining the postage chargeable thereon.

SEC. 1102. That the rate of postage on daily newspapers, when the same are deposited in a letter-carrier office for delivery by its carriers, shall be the same as now provided by law; and nothing in this title shall affect existing law as to free circulation and existing rates on second-class mail matter within the county of publication: *Provided*, That the Postmaster General may hereafter require publishers to separate or make up to zones in such a manner as he may direct all mail matter of the second class when offered for mailing.

SEC. 1103. That in the case of newspapers and periodicals entitled to be entered as second-class matter and maintained by and in the interest of religious, educational, scientific, philanthropic, agricultural, labor, or fraternal organizations or associations, not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual, the second-class postage rates shall be, irrespective of the zone in which delivered (except when the same are deposited in a letter carrier office for delivery by its carriers, in which case the rates shall be the same as now provided by law), 1⅛ cents a pound or fraction thereof on and after July first, nineteen hundred and eighteen, and until July first, nineteen hundred and nineteen, and on and after July first, nineteen hundred and nineteen, 1¼ cents a pound or fraction thereof. The publishers of such newspapers or periodicals before being entitled to the foregoing rates shall furnish to the Postmaster General, at such times and under such conditions as he may prescribe, satisfactory evidence that none of the net income of such organization inures to the benefit of any private stockholder or individual.

SEC. 1104. That where the total weight of any one edition or issue of any publication mailed to any one zone does not exceed one pound, the rate of postage shall be 1 cent.

SEC. 1105. The zone rates provided by this title shall relate to the entire bulk mailed to any one zone and not to individually addressed packages.

SEC. 1106. That where a newspaper or periodical is mailed by other than the publisher or his agent or a news agent or dealer, the rate shall be the same as now provided by law.

SEC. 1107. That the Postmaster General, on or before the tenth day of each month, shall pay into the general fund of the Treasury an amount equal to the difference between the estimated amount received during the preceding month for the transportation of first class matter through the mails and the estimated amount which would have been received under the provisions of the law in force at the time of the passage of this Act.

SEC. 1108. That the salaries of postmasters at offices of the first, second, and third classes shall not be increased after July first, nineteen hundred and seventeen, during the existence of the present war. The compensation of postmasters at offices of the fourth class shall continue to be computed on the basis of the present rates of postage.

SEC. 1109. That where postmasters at offices of the third class have been since May first, nineteen hundred and seventeen, or hereafter are granted leave without pay for military purposes, the Post-

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master General may allow, in addition to the maximum amounts which may now be allowed such offices for clerk hire, in accordance with law, an amount not to exceed fifty per centum of the salary of the postmaster.

SEC. 1110. That section five of the Act approved March third, nineteen hundred and seventeen, entitled "An Act making appropriations for the Post Office Department for the year ending June thirtieth, nineteen hundred and eighteen," shall not be construed to apply to ethyl alcohol for governmental, scientific, medicinal, mechanical, manufacturing, and industrial purposes, and the Postmaster General shall prescribe suitable rules and regulations to carry into effect this section in connection with the Act of which it is amendatory, nor shall said section be held to prohibit the use of the mails by regularly ordained ministers of religion, or by officers of regularly established churches, for ordering wines for sacramental uses, or by manufacturers and dealers for quoting and billing such wines for such purposes only.

TITLE XII.—INCOME TAX AMENDMENTS.

SEC. 1200. That subdivision (a) of section two of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"(a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income, derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever."

Section four of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"SEC. 4. The following income shall be exempt from the provisions of this title:

"The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a State or any political subdivision thereof or upon the obligations of the United States (but, in the case of obligations of the United States issued after September first, nineteen hundred and seventeen, only if and to the extent provided in the Act authorizing the issue thereof) or its possessions or securities issued under the provisions of the Federal Farm Loan Act of July seventeenth, nineteen hundred and sixteen; the compensation of the present President of the United States during the term for which he has been elected and the judges

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of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State, or any political subdivision thereof, except when such compensation is paid by the United States Government."

SEC. 1201. (1) That paragraphs second and third of subdivision (a) of section five of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Second. All interest paid within the year on his indebtedness except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title;

"Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes) or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits;"

(2) That section five of such Act of September eighth, nineteen hundred and sixteen, is hereby amended by adding at the end of subdivision (a) a further paragraph, numbered nine, to read as follows:

"Ninth. Contributions or gifts actually made within the year to corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or to societies for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of fifteen per centum of the taxpayer's taxable net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

SEC. 1202. That (1) paragraphs second and third of subdivision (a) of section six of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Second. The proportion of all interest paid within the year by such person on his indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) which the gross amount of his income for the year derived from sources within the United States bears to the gross amount of his income for the year derived from all sources within and without the United States, but this deduction shall be allowed only if such person includes in the return required by section eight all the information necessary for its calculation;

"Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;"

(2) Section six of such Act of September eighth, nineteen hundred and sixteen, is also further amended by adding a new subdivision to read as follows:

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"(c) A nonresident alien individual shall receive the benefit of the deductions and credits provided for in this section only by filing or causing to be filed with the collector of internal revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the United States, in the manner prescribed by this title; and in case of his failure to file such return the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax."

SEC. 1203. (1) That section seven of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"SEC. 7. That for the purpose of the normal tax only, there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each citizen or resident of the United States, ascertained as provided herein, the sum of $3,000, plus $1,000 additional if the person making the return be a head of a family or a married man with a wife living with him, or plus the sum of $1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of $1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of $4,000 shall be made from the aggregate income of both husband and wife when living together: *Provided further*, That if the person making the return is the head of a family there shall be an additional exemption of $200 for each child dependent upon such person, if under eighteen years of age, or if incapable of self-support because mentally or physically defective, but this provision shall operate only in the case of one parent in the same family: *Provided further*, That guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or cestui que trust: *Provided further*, That in no event shall a ward or cestui que trust be allowed a greater personal exemption than as provided in this section, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased citizens or residents of the United States during the period of administration or settlement, and of trust or other estates of citizens or residents of the United States the income of which is not distributed annually or regularly under the provisions of subdivision (b) of section two, the sum of $3,000, including such deductions as are allowed under section five."

(2) Subdivision (b) of section seven of such Act of September eighth, nineteen hundred and sixteen, is hereby repealed.

SEC. 1204. (1) That subdivisions (c) and (e) of section eight of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations, acting in any fiduciary capacity, shall make and render a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this title which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such

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return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this title which apply to individuals: *Provided*, That a return made by one of two or more joint fiduciaries filed in the district where such fiduciary resides, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph: *Provided further*, That no return of income not exceeding $3,000 shall be required except as in this title otherwise provided.

"(e) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this title: *Provided*, That from the net distributive interests on which the individual members shall be liable for tax, normal and additional, there shall be excluded their proportionate shares received from interests on the obligations of a State or any political or taxing subdivision thereof, and upon the obligations of the United States (if and to the extent that it is provided in the Act authorizing the issue of such obligations of the United States that they are exempt from taxation), and its possessions, and that for the purpose of computing the normal tax there shall be allowed a credit, as provided by section five, subdivision (b), for their proportionate share of the profits derived from dividends. Such partnership, when requested by the Commissioner of Internal Revenue or any district collector, shall render a correct return of the earnings, profits, and income of the partnership, except income exempt under section four of this Act, setting forth the item of the gross income and the deductions and credits allowed by this title, and the names and addresses of the individuals who would be entitled to the net earnings, profits, and income, if distributed. A partnership shall have the same privilege of fixing and making returns upon the basis of its own fiscal year as is accorded to corporations under this title. If a fiscal year ends during nineteen hundred and sixteen or a subsequent calendar year for which there is a rate of tax different from the rate for the preceding calendar year, then (1) the rate for such preceding calendar year shall apply to an amount of each partner's share of such partnership profits equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rate for the calendar year during which such fiscal year ends shall apply to the remainder.

(2) Subdivision (d) of section eight of such Act of September eighth, nineteen hundred and sixteen, is hereby repealed.

SEC. 1205. (1) That subdivisions (b), (c), (f), and (g) of section nine of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"(b) All persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical

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gains, profits, and income of any nonresident alien individual, other than income derived from dividends on capital stock, or from the net earnings of a corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title, are hereby authorized and required to deduct and withhold from such annual or periodical gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this title, and shall make return thereof on or before March first of each year and, on or before the time fixed by law for the payment of the tax, shall pay the amount withheld to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax, and they are each hereby indemnified against every person, corporation, partnership, association, or insurance company, or demand whatsoever for all payments which they shall make in pursuance and by virtue of this title.

"(c) The amount of the normal tax hereinbefore imposed shall also be deducted and withheld from fixed or determinable annual or periodical gains, profits and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, (if such bonds, mortgages, or other obligations contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee or to reimburse the obligee for any portion of the tax or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States) whether payable annually or at shorter or longer periods and whether such interest is payable to a non-resident alien individual or to an individual citizen or resident of the United States, subject to the provisions of the foregoing subdivision (b) of this section requiring the tax to be withheld at the source and deducted from annual income and returned and paid to the Government, unless the person entitled to receive such interest shall file with the withholding agent, on or before February first, a signed notice in writing claiming the benefit of an exemption under section seven of this Title.

"(f) All persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to obtain the information required under this title, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and whoever knowingly undertakes to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding $5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

"(g) The tax herein imposed upon gains, profits, and incomes not falling under the foregoing and not returned and paid by virtue of the foregoing or as otherwise provided by law shall be assessed by personal return under rules and regulations to be prescribed by the

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Commissioner of Internal Revenue and approved by the Secretary of the Treasury. The intent and purpose of this title is that all gains, profits, and income of a taxable class, as defined by this title, shall be charged and assessed with the corresponding tax, normal and additional, prescribed by this title, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control, or disposal of the same. For the purpose of this title ownership or liability shall be determined as of the year for which a return is required to be rendered.

"The provisions of this section, except subdivision (c), relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon nonresident alien individuals."

(2) Subdivisions (d) and (e) of section nine of such Act of September eighth, nineteen hundred and sixteen, are hereby repealed.

SEC. 1206. (1) That the first paragraph of section ten of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"SEC. 10. (a) That there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company or association, or insurance company, organized in the United States, no matter how created or organized, but not including partnerships, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies, whose net income is taxable under this title."

(2) Section ten of such Act of September eighth, nineteen hundred and sixteen, is hereby further amended by adding a new subdivision as follows:

"(b) In addition to the income tax imposed by subdivision (a) of this section there shall be levied, assessed, collected, and paid annually an additional tax of ten per centum upon the amount, remaining undistributed six months after the end of each calendar or fiscal year, of the total net income of every corporation, joint-stock company or association, or insurance company, received during the year, as determined for the purposes of the tax imposed by such subdivision (a), but not including the amount of any income taxes paid by it within the year imposed by the authority of the United States.

"The tax imposed by this subdivision shall not apply to that portion of such undistributed net income which is actually invested and employed in the business or is retained for employment in the reasonable requirements of the business or is invested in obligations of the United States issued after September first, nineteen hundred and seventeen: *Provided*, That if the Secretary of the Treasury ascertains and finds that any portion of such amount so retained at any time for employment in the business is not so employed or is not reason-

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ably required in the business a tax of fifteen per centum shall be levied, assessed, collected, and paid thereon.

"The foregoing tax rates shall apply to the undistributed net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and seventeen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rates shall apply to the proportion of the taxable undistributed net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and seventeen, which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year."

SEC. 1207. (1) That paragraphs third and fourth of subdivision (a) of section twelve of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding: *Provided*, That for the purpose of this title preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall not be deductible from gross income: *Provided further*, That in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares: *Provided further*, That in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company shall be deducted;

"Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or

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other taxing subdivision of any State, not including those assessed against local benefits."

(2) Paragraphs third and fourth of subdivision (b) of section twelve of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the United States and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof;

"Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits."

SEC. 1208. That subdivision (e) of section thirteen of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"(e) All the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to the tax imposed by subdivision (a) of section ten upon incomes derived from interest upon bonds and mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, not engaged in business or trade within the United States and not having any office or place of business therein."

SEC. 1209. That section eighteen of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"SEC. 18. That any person, corporation, partnership, association, or insurance company, liable to pay the tax, to make a return or to supply information required under this title, who refuses or neglects

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to pay such tax, to make such return or to supply such information at the time or times herein specified in each year, shall be liable, except as otherwise specially provided in this title, to a penalty of not less than $20 nor more than $1,000. Any individual or any officer of any corporation, partnership, association, or insurance company, required by law to make, render, sign, or verify any return or to supply any information, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this title to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding $2,000 or be imprisoned not exceeding one year, or both, in the discretion of the court, with the costs of prosecution: *Provided*, That where any tax heretofore due and payable has been duly paid by the taxpayer, it shall not be re-collected from any withholding agent required to retain it at its source, nor shall any penalty be imposed or collected in such cases from the taxpayer, or such withholding agent whose duty it was to retain it, for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment."

SEC. 1210. That section twenty-six of such Act of September eighth, nineteen hundred and sixteen, as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, is hereby amended to read as follows:

"SEC. 26. Every corporation, joint-stock company or association, or insurance cumpany subject to the tax herein imposed, when required by the Commissioner of Internal Revenue, shall render a correct return, duly verified under oath, of its payments of dividends, whether made in cash or its equivalent or in stock, including the names and addresses of stockholders and the number of shares owned by each, and the tax years and the applicable amounts in which such dividends were earned, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

SEC. 1211. That Title I of such Act of September eighth, nineteen hundred and sixteen, is hereby amended by adding to Part III six new sections, as follows:

"SEC. 27. That every person, corporation, partnership, or association, doing business as a broker on any exchange or board of trade or other similar place of business shall, when required by the Commissioner of Internal Revenue, render a correct return duly verified under oath, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, showing the names of customers for whom such person, corporation, partnership, or association has transacted any business, with such details as to the profits, losses, or other information which the commissioner may require, as to each of such customers, as will enable the Commissioner of Internal Revenue to determine whether all income tax due on profits or gains of such customers has been paid.

"SEC. 28. That all persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, and employers, making payment to another person, cor-

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poration, partnership, association, or insurance company, of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections twenty-six and twenty-seven), of $800 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, are hereby authorized and required to render a true and accurate return to the Commissioner of Internal Revenue, under such rules and regulations and in such form and manner as may be prescribed by him, with the approval of the Secretary of the Treasury, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment: *Provided*, That such returns shall be required, regardless of amounts, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, and in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest from the bonds and dividends from the stock of foreign corporations by persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

"When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person, corporation, partnership, association, or insurance company paying the income.

"The provisions of this section shall apply to the calendar year nineteen hundred and seventeen and each calendar year thereafter, but shall not apply to the payment of interest on obligations of the United States.

"SEC. 29. That in assessing income tax the net income embraced in the return shall also be credited with the amount of any excess profits tax imposed by Act of Congress and assessed for the same calendar or fiscal year upon the taxpayer, and, in the case of a member of a partnership, with his proportionate share of such excess profits tax imposed upon the partnership.

"SEC. 30. That nothing in section II of the Act approved October third, nineteen hundred and thirteen, entitled 'An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes,' or in this title, shall be construed as taxing the income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on depostits in banks in the United States of moneys belonging to foreign governments.

"SEC. 31. (a) That the term 'dividends' as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of the earnings or profits so distributed.

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"(b) Any distribution made to the shareholders or members of a corporation, joint-stock company, or association, or insurance company, in the year nineteen hundred and seventeen, or subsequent tax years, shall be deemed to have been made from the most recently accumulated undivided profits or surplus, and shall constitute a part of the annual income of the distributee for the year in which received, and shall be taxed to the distributee at the rates prescribed by law for the years in which such profits or surplus were accumulated by the corporation, joint-stock company, association, or insurance company, but nothing herein shall be construed as taxing any earnings or profits accrued prior to March first, nineteen hundred and thirteen, but such earnings or profits may be distributed in stock dividends or otherwise, exempt from the tax, after the distribution of earnings and profits accrued since March first, nineteen hundred and thirteen, has been made. This subdivision shall not apply to any distribution made prior to August sixth, nineteen hundred and seventeen, out of earnings or profits accrued prior to March first, nineteen hundred and thirteen.

"SEC. 32. That premiums paid on life insurance policies covering the lives of officers, employees, or those financially interested in any trade or business conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing the net income of such individual, corporation, joint-stock company or association, or insurance company, or in computing the profits of such partnership for the purposes of subdivision (e) of section nine."

SEC. 1212. That any amount heretofore withheld by any withholding agent as required by Title I of such Act of September eighth, nineteen hundred and sixteen, on account of the tax imposed upon the income of any individual, a citizen or resident of the United States, for the calendar year nineteen hundred and seventeen, except in the cases covered by subdivision (c) of section nine of such Act, as amended by this Act, shall be released and paid over to such individual, and the entire tax upon the income of such individual for such year shall be assessed and collected in the manner prescribed by such Act as amended by this Act.

TITLE XIII.—GENERAL PROVISIONS.

SEC. 1300. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 1301. That Title I of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extension of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, be, and the same is hereby, repealed.

SEC. 1302. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Approved, October 3, 1917.

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(T. D. 2533.)

Bond for extending payment of certain taxes.

Form of bond prescribed for extending payment to a date not exceeding seven months from the passage of the act of October 3, 1917, of additional taxes imposed by said act upon articles or commodities previously tax paid and other floor taxes imposed by the same act, such bonds to be executed in duplicate with an approved surety company and in a penal sum of not less than double the tax due and in no case less than $1,000.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 6, 1917.

To collectors of internal revenue:

Under section 1002 of the act approved October 3, 1917, the form of bond for extending payment of additional taxes imposed by said act upon articles or commodities upon which the tax imposed by existing law has been paid to a date not exceeding seven months from passage of the act is hereby prescribed:

Treasury Department.
U. S. Internal Revenue.
Form 723.

[To be executed in duplicate with an approved surety company in a penal sum of not less than double the tax due and in no case less than $1,000.]

BOND.

(*For additional taxes imposed by act of Congress approved October 3, 1917, on certain articles held by dealers and jobbers.*)

Know all men by these presents, that we, ——— ———, of ———, ——— ———, as principal, and ——— ———, of ———, ——— ———, as surety, are held and firmly bound unto the United States of America in the sum of —— thousand dollars, lawful money of the United States, for the payment whereof to the United States we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this —— day of ———, 19—.

Whereas the above-bounden principal is indebted to the United States in the sum of ——— dollars, being the ascertained amount of internal-revenue taxes due and payable under an act of Congress approved October 3, 1917, on certain articles owned or held by the said principal on the date said act went into effect, and more particularly described in a return made by the said principal to the collector of internal revenue of the —— district of ———, on or about the —— day of ———, 1917.

Now, therefore, the condition of the foregoing obligation is such that if the said principal shall well and truly pay or cause to be paid to the said collector of internal revenue the tax on said articles within seven months from the date of said act, and shall likewise pay or cause to be paid to the said collector any additional tax hereafter found to be due on said articles or any like articles so held by the said principal, then this obligation to be void; otherwise to remain in full force and virtue.

——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, and delivered in the presence of—

——— ———.
——— ———.

Examined and approved this —— day of ———, 19—.

———,
Collector.

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Such bond shall be executed in duplicate with an approved surety company and in a penal sum of not less than double the tax due and in no case less than $1,000.

A supply of the blank forms of the above bond will be forwarded to each collector. In executing such bonds, the blanks furnished by the department only shall be used.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2534.)

Income tax.

Verification of returns of income by individuals in the naval and military establishment of the United States at home or abroad in certain cases.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 29, 1917.

To collectors of internal revenue:

T. D. 2090 (oaths), items 3 and 4, are hereby amended by substituting for said items 3 and 4 the following:

"For the purpose of verification of returns of income by persons in the naval and military service of the United States, any officer in the naval or military service of the United States, within or without the United States, who is authorized to administer oaths under the provisions of section 4, act of July 27, 1892 (27 Stat., 278), providing for the administration of oaths for the purpose of military justice and administration, or under the provisions of act of March 4, 1917 (Public 391, page 4), providing for administration of oaths for the purpose of naval justice and administration, is hereby empowered and authorized to take the acknowledgment of such persons making returns of income.

"In all such cases the certifying officer shall place under his name the official designation under which he acts."

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2535.)

Estate tax.

Increase in rates of taxation upon estates of decedents dying on and after October 4, 1917. This increase does not apply to estates of decedents dying while serving in the military or naval forces of the United States under certain conditions.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 9, 1917.

To collectors of internal revenue and internal-revenue agents:

The revenue act of October 3, 1917, by amendment to the original act of September 8, 1916, as amended by the act of March 3, 1917, increases the graduated rates of taxation upon the taxable estates of decedents dying after the passage thereof. In view of the fact that this is the second amendment providing increased rates over those contained in the original act, it is deemed advisable, in order to secure uniformity in results and avoid confusion, that the following tabulation be brought specially to the attention of those officers whose duties include the computation of taxes upon the net estates of decedents.

Rates of taxation upon net estates.

	Date of death.		
	Sept. 9, 1916, to Mar. 2, 1917, inclusive.	Mar. 3, 1917, to Oct. 3, 1917, inclusive.	On and after Oct. 4, 1917.
	Per cent.	*Per cent.*	*Per cent.*
Net estate not exceeding $50,000	1	1½	2
Net estate $50,000 to $150,000	2	3	4
Net estate $150,000 to $250,000	3	4½	6
Net estate $250,000 to $450,000	4	6	8
Net estate $450,000 to $1,000,000	5	7½	10
Net estate $1,000,000 to $2,000,000	6	9	12
Net estate $2,000,000 to $3,000,000	7	10½	14
Net estate $3,000,000 to $4,000,000	8	12	16
Net estate $4,000,000 to $5,000,000	9	13½	18
Net estate $5,000,000 to $8,000,000	10	15	20
Net estate $8,000,000 to $10,000,000	10	15	22
Net estate exceeding $10,000,000	10	15	25

It will be noted that the rates provided in the original act are computed upon the net estate of every decedent dying on and after September 9, 1916, to and including March 2, 1917; the rates provided in the amendment of March 3, 1917, apply to the net estate of every decedent dying on and after March 3, 1917, to and including October 3, 1917; the rates provided in the amendment of October 3, 1917, apply to the net estate of every decedent dying on and after October 4, 1917.

The amendment of October 3, 1917, exempts from the additional tax imposed by Title IX of this act the transfer of the net estate of any decedent dying while serving in the military or naval forces of

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the United States during the continuance of the war in which the United States is now engaged or if death results from injuries received or disease contracted in such service within one year after the termination of such war. It will be noted, however, that this exemption does not affect the operation of the original act and the amendment thereto of March 3, 1917, in its application to the net estates of the decedents above mentioned. Therefore the net estates of the military and naval decedents specified above are taxable at the rates imposed in the March 3, 1917, act.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2536.)

Alcoholic beverages.

Instructions relative to tax on ginger brandy and similar compound alcoholic beverages.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The following letter was written in reply to an inquiry, addressed to the Commissioner of Internal Revenue, regarding additional tax on Cauffman's ginger brandy:

SIR: Your letter of the 8th instant has been received, submitting labels for Cauffman's ginger brandy for determination as to what additional tax is due on this alcoholic compound as a beverage or a proprietary medicine under existing law.

In regard to this matter you are advised that since Cauffman's ginger brandy has been held, after examination of the formula and sample, to be an alcoholic compound beverage for which special tax is required for manufacturing and selling, it is clear that only alcohol tax paid at the rate of $3.20 per gallon may be used in compounding same. Furthermore, no distilled spirits produced from foods, fruits, feeds, or feed material, fermented after 11 o'clock p. m. of September 8, 1917, may be used in manufacturing this compound. Since this is a product of rectification, the tax of 15 per cent per proof gallon will be required thereon as to all of such compound in the possession of the rectifier on October 4 or thereafter produced. The additional floor tax at the rate of $2.10 per proof gallon of spirits contained in the product in the hands of the rectifier and dealers on October 4 must be paid after inventory and return in the same manner as the floor taxes on distilled spirits.

Although the label for this ginger brandy shows medicinal claims, no tax will be required as a proprietary medicine. This rule will obtain as to all alcoholic compounds listed in T. D. 2222 or passed upon subsequent to its publication for which special tax is required for the manufacture and sale and which fail to measure up to the standard as set forth in T. D. 1843 as to so-called alcoholic medicinal compounds.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2537.)

Liberty bonds as security for certain taxes.

Liberty bonds of the United States may be deposited as security for the payment of floor taxes due in lieu of surety bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 17, 1917.

To collectors of internal revenue:

Section 1002 of the war-revenue act approved October 3, 1917, provides as follows:

> That where additional taxes are imposed by this act upon articles or commodities, upon which the tax imposed by existing law has been paid, the person, corporation, partnership, or association required by this act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

In answer to inquiries collectors are informed that they may accept, in lieu of surety bonds, as security for the payment of floor taxes covered by section 1002 of the act approved October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of the taxes due.

Collectors will adopt all proper means to bring the above information to the attention of the public.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2538.)

Playing cards.

Regulations concerning the collection of tax imposed by the act of October 3, 1917, on playing cards, affixing of tax-paid stamps of the old rate, and assessment and collection of additional tax due on and after October 4, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 10, 1917.

To collectors of internal revenue and others concerned:

Title VIII, Schedule A, act of October 3, 1917, imposes upon every pack of playing cards containing not more than 54 cards a tax of 5

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cents in addition to the tax of 2 cents per pack imposed by the act of August 28, 1894, which becomes effective, and such additional tax attached to all playing cards manufactured or imported and sold or removed for sale on and after October 4, 1917. This additional tax does not apply to cards manufactured and removed tax paid prior to October 4 in the hands of jobbers and retail dealers, unless the packs to which the stamps affixed have been broken and the cards repacked in new cases, in which event the dealer so packing same would be liable to the tax as in the case of an original manufacturer under the provisions of T. D. 1100.

Section 1001 provides that any person, corporation, or association liable to any tax imposed under this act, or for the collection thereof, shall keep records and render under oath such statements and returns and comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Section 1006 provides that where a tax imposed under this act, payable by stamps, is an increase over existing rates, stamps on hand in the offices of collectors and the Bureau of Internal Revenue may be used until the supply is exhausted, and manufacturers or importers having such stamps on hand may use same and the additional tax due under this act will be assessed.

Under authority of the above sections the following regulations are hereby promulgated:

Every manufacturer and importer of playing cards will render to the collector of the district wherein the factory is located a sworn inventory, in duplicate, on or before October 31, 1917, showing the number of packs of playing cards, entering separately the number of stamped and unstamped packs on hand at the beginning of business October 4, and likewise the number of attached and unattached stamps at the rate of 2 cents. These inventories may be rendered on Form 215, modified to suit the nature of the article or in typewritten form.

On October 31, or within 10 days thereafter, every manufacturer or importer will render under oath, in duplicate, a return covering the period October 4 to 31, inclusive, showing the number of packs of cards manufactured or imported, the number withdrawn tax paid, the name and address of each person firm or corporation to whom such cards may be consigned or sold, the number and total value at the rate of 2 cents of stamps affixed, and the additional tax of 5 cents per pack due thereon.

This return will be rendered for each subsequent month on the last day thereof, or on or before the 10th day of the succeeding month, until the supply of stamps at the old rate on hand is exhausted.

Forms for rendering these returns may be obtained upon application to the collector of the district, or manufacturers or importers,

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if they so desire, may make up such monthly return upon the typewriter, provided it conforms in detail with that prescribed.

Collectors will carefully verify these inventories and returns and enter for assessment on their lists, Form 23, the additional tax at 5 cents shown due from manufacturers or importers until the stock of stamps at the rate of 2 cents held by the taxpayer has been exhausted. Thereafter every manufacturer and importer will be required to render such return for each month during continuance in business, but the additional tax will not be noted thereon, as all stamps purchased from the collector on and after October 4 will be sold and accounted for at the new rate.

One copy of the inventory and of each monthly return will be forwarded to this office by the collector and the other copy retained in his office.

On and after October 4 collectors selling stamps on hand of the rate of 2 cents will overprint same, require payment and account therefor at the rate of 7 cents per pack, as outlined in Mim. 1621 of September 20, 1917.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2539.)

Distilled spirits.

Rate of tax on distilled spirits lost in transit for export or lost by casualty in a distillery warehouse.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 17, 1917.

SIR: This office is in receipt of your letter of October 5, 1917, relative to the rate of tax to be collected in cases of casualty and losses in transit for export which have occurred prior to October 4, 1917.

In the case of losses in transit for export, the rate of tax will be determined by the date on which the spirits were inspected by the customs gauger at the port of export. The rate of tax which will become due on spirits lost in transit from a lot inspected by the customs gauger on or before October 3, 1917, will be $1.10 per proof gallon. Where a loss is discovered by the customs gauger on or after October 4, 1917, the tax due on such loss will be at the rate of $3.20 per proof gallon.

In the matter of casualties in warehouse you are advised that where a loss occurs or is discovered on or before October 3, 1917, the

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tax due on the spirits so lost will be at the rate of $1.10 per proof gallon. The tax due on spirits lost by casualty, or when the loss by casualty is discovered on October 4, 1917, or after, will be at the rate of $3.20 per proof gallon.

The fixing of the rate of tax herein on spirits lost in transit for export, or by casualty in warehouses, does not affect the right of the distiller to obtain, in proper cases, the abatement or refund of tax under section 1 of the act of December 20, 1879, or section 3221 Revised Statutes.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

COLLECTOR OF INTERNAL REVENUE, *Louisville, Ky.*

(T. D. 2540.)

Income tax.

All dividends paid out of amounts set aside to cover depreciation and depletion constitute taxable income to the stockholder receiving them.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 10, 1917.

To collectors of internal revenue:

Referring to the practice of certain corporations of declaring dividends out of reserves set aside to meet depreciation and depletion of property and of advising stockholders that such dividends represent a distribution of capital assets, your attention is directed to the ruling made herein as follows:

All such dividends received by stockholders declared out of such reserves accumulated subsequent to March 1, 1913, constitute income to the stockholder under the act of September 8, 1916, and must be accounted for in returns of net income.

A stockholder's investment is in the stock of a corporation. If he disposes of his stock for more than its fair market value on March 1, 1913, or its cost if acquired since that date, the profit realized must be returned as income; if he disposes of it at a loss, the loss sustained is deductible from gross income within the limits of the taxing act. In computing the profit or loss sustained, there must be taken into account dividends paid from reserves accumulated prior to March 1, 1913, which were not returned as income for the year in which received, under the provisions of the act of September 8, 1916.

All rulings in conflict herewith are hereby revoked.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:

OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2541.)

Income and excess-profits taxes.

Application of income and excess-profits taxes to Liberty bonds issued or to be issued under the act of September 24, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The following rulings relative to the application of the income and excess-profits taxes to the 4 per cent Liberty bonds issued or to be issued under the act of September 24, 1917, are hereby promulgated:

(1) Under the income-tax law, as amended by the war-revenue act, interest paid within the year on indebtedness incurred for the purchase of Liberty 4 per cent bonds may be deducted in computing net income subject to income surtaxes and excess-profits taxes. In case of corporations this is, of course, subject to the limitations imposed by the income-tax law on the amount of indebtedness, interest on which may be deducted.

(2) Investments in obligations of the United States, including Liberty bonds of both issues, made by a corporation or partnership from capital, surplus, or undivided profits will be included in invested capital for the purpose of computing the deduction and rate of taxation under the excess-profits tax law; but undivided profits earned during the taxable year can not be included in invested capital.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2542.)

Income tax—Decision of court.

Dividends received by a stockholder in 1913 paid from surplus earned prior to January 1, 1913, constitute income to the stockholder.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1917.

The appended decision of the United States Circuit Court of Appeals for the Third Circuit, in the case of C. G. Lewellyn, collector, *v.* Gulf Oil Corporation, is published for the information of internal-revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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UNITED STATES CIRCUIT COURT OF APPEALS, THIRD CIRCUIT, MARCH TERM, 1917.

Gulf Oil Corporation v. *C. G. Lewellyn, collector* (*D. C.*). *C. G. Lewellyn, collector*, v. *Gulf Oil Corporation*. (*2254*)

[Error to the District Court of the United States for the Western District of Pennsylvania.]

Before BUFFINGTON, McPHERSON, and WOOLEY, Circuit Judges.

McPHERSON, Judge: We may summarize the facts as follows: For a number of years the corporation has owned all the stock (except directors' shares) of the five subsidiaries named, and it owned this stock while the subsidiaries were accumulating the earnings that were afterwards transferred to the corporation in the form of dividends. With the exceptions not now material, none of the subsidiaries had declared a dividend before December 31, 1912. The previous earnings had been used from time to time in carrying on, extending, and developing the several enterprises in which they were engaged and the earnings were properly employed for these purposes. In January, 1913, the corporation decided to have these earnings transferred to itself, and thereupon the subsidiaries took the following steps: On February 7, 1913, the Guffey Petroleum Co., the Gulf Pipe Line Co., and the Gulf Pipe Line Co. of Oklahoma each declared a dividend, payable immediately, out of the surplus and earnings that had accumulated before January 1, 1913; and on April 11 the corporation received on this account from the Guffey Co. $3,749,750; from the Gulf Pipe Line Co., $4,724,055; and from the Gulf Pipe Line Co. of Oklahoma, $2,597,660. The Indiana Oil & Gas Co. declared 2 dividends out of similar surplus and earnings, one on January 8, 1913, from which the corporation received on the same day $338,000, and one on February 24, 1913, from which, on February 25, the corporation received $10,000. Out of similar earnings and surplus the Gulf Commissary Co. declared a dividend on December 17, 1912, from which, on January 4, 1913, the corporation received $4,975. The respective dividends were not declared in cash; the earnings, as and when produced, had been employed in the several enterprises, and had thus been invested in different kinds of property. They had not always been used to promote the particular business that had earned them, but had been sometimes used to aid another branch, the subsidiaries keeping a debtor and creditor account among themselves.

In this situation, the corporation made a return to the Government of its income for 1913, certifying that the return did not include the dividends referred to, and giving as a reason that they had been declared and paid out of earnings and surplus that had accrued before January 1, 1913. The collector, however, demanded a total tax of $114,244.40 from the corporation for the year 1913, basing the assessment solely on the receipt of these dividends. This was in part a franchise tax and in part an income tax. After various proceedings—claim for abatement, protest, payment, petition for repayment, and the commissioner's refusal—the controversy reached the District Court in the suit now before us. The subsidiaries had all been subject to the excise or franchise tax under the act of August 5, 1909, and they had all paid the amounts imposed thereunder. The sum in dispute was not charged against the subsidiaries, but against the corporation alone, and is made up of a franchise tax for the first two months of 1913, and an income tax for the remaining 10 months. The opinion of the district judge sets forth the argument that led him to decide that the taxes were unlawfully imposed, the position being that the dividends had been declared out of surplus earnings that had accumulated during several years and had accrued to the corporation (at least in equitable ownership) before January 1, 1913. We are unable to assent to this proposition for the following reasons:

It is first to be observed (and this should be borne distinctly in mind) that the Government's levy was not upon the subsidiaries but upon one of their stockholders, namely, upon the Gulf Oil Corporation. We do not understand the corporation to lay

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stress upon a supposed identity of the five subsidiaries with itself, but in any event the facts in proof would furnish a sufficient answer to such a position. No doubt all the companies are engaged together in a common enterprise, but the enterprise has several branches, and each subsidiary attends to its own branch while the corporation does the like. Perhaps the corporation may be more accurately described as uniting and regulating its subsidiaries, but each of the companies, whether holding or subsidiary, is a distinct entity, and is to be so treated. The several companies are not in such relations to each other that the property and obligations and liabilities of one can be regarded as the property and obligations and liabilities of any other. Each owns its own assets, carries on its own business, owes its own debts, pays its own taxes, and enjoys its own incomes. Under the excise act of 1909, each was separately taxed in respect to its own business, and under that act the corporation certainly did not include in its own return the proceeds of the business done by the subsidiaries.

Now, if the corporation had been an individual and had received the property in question by the method of transfer described in the findings of fact, the contention would hardly be made that no dividend had in fact been declared or received, for, although no actual money might have passed, each company would have transferred the ownership of valuable property to one of its stockholders, who could thenceforth deal with it as he pleased, and could convert it into cash whenever he might desire. The fact that the stockholder happens to be incorporated can make no difference; the central question is, Has a dividend been declared? If the corporation has received a "dividend," this dividend has been declared by the act to be "income" and, as income, Congress has directed it to be used in measuring both the taxes now in dispute. That the money (or property) handed over to the corporation was a dividend we entertain no doubt. All the property transferred had been derived from earnings; none of it had become capital; it had been accumulated like cash, having been gained in the course of each subsidiary's business, and it awaited the pleasure of the respective boards of directors. These boards did not carry it to capital account; they did not issue stock to represent its value; they did not retain it for future use in their respective businesses. They decided to distribute it formally to their stockholders as a dividend, just as if it had been money, and they did in fact distribute it. No doubt one of the stockholders received almost all of it, but this did not change the character of the directors' act, which continued to be the declaration of a dividend, judged by the accepted tests. Gibbons *v.* Mahon (136 U. S., 549.) It can make no difference in the character of the directors' act that the stockholder in question is a corporation and not an individual. Whether a distribution of corporate property is to be regarded as a dividend or not does not depend on the status of the person that receives a share but on what is done by the distributor. In the first instance the money or property is owned by the distributor and as owner he has the power to decide what is to become of it. After the stockholder receives it, he may use it as he likes, but it comes into his hands as a dividend whether he be an individual or a chartered company. We conclude therefore that the Gulf Oil Corporation received the property in question in the character of a separate stockholder in the subsidiaries, and received it as a dividend.

Being a dividend the corporation received it after March 1, 1913, and the remaining question is whether taxes have been laid upon it; and, if so, to what extent and in what manner? In thus speaking of a tax being laid upon property, we use the customary phrase. In strictness, taxes like the sum in question are not upon the property itself, but are exacted from the taxpayer because of his relation to the property. The owner pays, and the property measures the amount of the exaction. This is emphasized in the case before us, where two taxes are levied upon the same taxpayer. Each tax is levied in respect of a different subject of taxation, but the amount of each is ascertained by the same measure, namely, by the taxpayer's income. For the year 1913, the corporation was called upon to pay two taxes, one an excise or a

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franchise tax for January and February, and the other an income tax for the remaining 10 months; but the amount of the excise tax was measured by the corporation's income, and the amount of the tax in respect of the income itself was determined by the same measure. Before February 25, 1913, Congress could not tax the corporation's income directly, but it *could* value its franchise according to its income and could impose the tax on that basis. Maine *v.* Railway Co. (142 U. S., 217). After the adoption of the income-tax amendment, Congress could tax the income directly, and for the remainder of the year it did tax the income in this manner. Each tax being computed by the same method, both were collected in one sum for convenience, but each depends for its validity on separate provisions. And we may add that Congress was not bound to go into a minute inquiry concerning the source of earnings that might be divided or concerning the method by which they had been accumulated. For we have to do with a situation where the property divided is concededly earnings, and our decision is confined to the facts before us.

The foregoing is the course of reasoning that commends itself to our minds, and we may briefly restate the conclusions. As levied by the act of 1913, both taxes are constitutional, and each was distinctly laid on a separate subject of taxation. The excise or franchise tax was limited to the first two months of the year, and the value of the franchise was lawfully ascertained by using the corporation's income as a measure; the income tax was for the remainder of the year, and was lawfully ascertained by using the same measure. In computing the corporation's income the Government lawfully took into account the valuable property over which the corporation had acquired the complete ownership by virtue of its stock in the several subsidiaries, this ownership having been transferred to it by the formal declaration of a dividend. In exact terms the facts present the conditions laid down by the act of Congress, and therefore (as no question is made concerning the regularity of the Government's procedure) the amount of the two taxes was lawfully levied and collected.

The case of Lynch, collector, *v.* Turrish (C. C. A., 8; 236 Fed., 653), on which the corporation relies with much confidence, does not seem to be in point. The facts were these: Turrish was a stockholder in the Payette Lumber Co., whose capital stock, $1,500,000, was invested in timberlands. The company did no business and earned no money, but the value of its lands increased gradually until on March 1, 1913, it had grown to be $3,000,000. In 1914 the company sold the lands—that is, all its capital—for $3,000,000 and divided this sum among its stockholders. The share of Turrish was taxed as income received during 1914, and the Court of Appeals decided that he was not liable—

> Because no income, gains, or profits accrued to the plaintiff during the year 1914 or after March 1, 1913, but during that time his property remained of the same value, and because the sale of the property of the Payette Co. in 1914 and the distribution of its proceeds by a dividend to its stockholders was not a change of the form, without any increase of the value, of the property he owned before the income-tax law of 1913 took effect.

The case did not involve the question of an ordinary dividend from accumulated earnings but decided that a sale of capital property and a distribution of the proceeds did not constitute the division of "income, gains, or profits" within the meaning of the act of 1913. No such facts are before us now. We may add that the decision is to be reviewed by the Supreme Court.

A situation more like the case in hand is found in Southern Pacific Co. *v.* Lowe (D. C.) (238 Fed., 847), where Judge Manton delivered an opinion that discusses the general subject satisfactorily. We shall not take up other citations in the briefs of counsel; most of them may be distinguished on their facts, and in any event the question here, if we have outlined it correctly, seems to suggest an answer that is reasonably plain. Moreover, the two cases just referred to cite and consider nearly all the cases to which our attention had been called.

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One or two minor questions have been raised, but they do not require attention. The important points have been stated, briefly but we hope adequately, and if they have been correctly decided we see no need for a more elaborate discussion.

The judgment is reversed, with instructions to the District Court to enter a judgment in favor of the collector.

(T. D. 2543.)

Dates on which act of October 3, 1917, becomes effective as to stamp taxes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1917.

To collectors of internal revenue and others concerned:

You are advised that Title VIII, Schedule A, act of October 3, 1917, imposing stamp taxes upon bonds of indebtedness, debentures or certificates of indebtedness, bonds of indemnity and surety, capital-stock issues, capital-stock sales or transfers, produce sales on exchanges or boards of trade, drafts, checks, and promissory notes otherwise than payable at sight or on demand, conveyances, deeds, instruments conveying lands, tenements, or other realty, entry of goods at customhouse, entry for withdrawal of goods from customs bonded warehouses, passage tickets, proxies, powers of attorney, and parcels-post packages, becomes effective on and after December 1, 1917.

The additional tax of 5 cents per pack upon playing cards, imposed under subdivision 13 of Schedule A, became effective on and after October 4, 1917, but this additional tax attaches only to playing cards manufactured or imported and sold or removed for sale on and after that date, and is to be paid by the manufacturers or importers.

This additional tax does not apply to tax-paid stocks in the hands of wholesale or retail dealers, and such dealers may sell all cards tax paid at 2 cents under the original act of August 28, 1894, which they had on hand on October 4, without incurring liability to the additional tax of 5 cents per pack.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2544.)

Alcoholic medicinal preparations.

List of alcoholic medicinal preparations for the sale of which special tax is required. Revision of T. D. 2222.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1917.

To collectors of internal revenue, revenue agents, and others:

The accompanying list of alcoholic medicinal preparations which have been examined by this office and held to be insufficiently

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medicated to render them unfit for use as a beverage is published for the information of all concerned.

Special tax will be required for the sale of any of the preparations herein named, even though such sales are for medicinal use. The liabilities of dealers for sales *for medicinal use* of any of the preparations marked with an asterisk (*) will, however, be held to date from and after January 1, 1918.

The names of most of the preparations heretofore given on the various lists which have been published will be found included in this list, the only exceptions being those the manufacturers of which have revised their formulas to meet the requirements of this office or which are no longer on the market. Special tax should not, therefore, be required for the sale for medicinal use of any alleged medicinal compound not on this list until this office has been communicated with and specific instructions received.

The preceding paragraph does not, however, apply to the class of compounds usually described by the term "cocktail bitters," which are suitable for and usually used as beverages.

It having been found in various instances that there are several preparations of the same name on the market, the names of the manufacturers of the preparations examined by this office are here given, and it should be understood that only the preparations as compounded by the manufacturer whose name is given are embraced in this list.

Special tax will be required for the manufacture and sale of beef, wine, and iron, unless it contains at least the percentages of beef and iron given in the formula on page 1821 of the nineteenth edition of the United States Dispensatory or is otherwise sufficiently medicated to be unsuitable for use as a beverage. Special tax will also be required for the sale of compounds ordinarily sold under the name of rock, rye, and glycerin, and ginger brandy.

Collectors and revenue agents should continue to secure and forward to this office samples of preparations which they have reason to believe are or may be used as a beverage.

List of alcoholic medicinal preparations.

Ale and Beef, Ale & Beef Co., Dayton, Ohio.
Allen's Restorative Tonic, Faxon & Gallagher Drug Co., Kansas City, Mo.
Alps Bitters, Peter Rostekowski, Chicago, Ill.
Amer Picon, G. Picon (imported).
Angostura Aromatic Tincture Bitters, E. R. Behlers, St. Louis, Mo.
Arbaugh's Newport Bitters, Daniel Stewart Co., Indianapolis, Ind.
Aroma Bitters, V. Gautier, 287 Hudson Street, New York.
Aromatic Bitters, Hanigan Bros., Denver, Colo.
*Atlas Life Tonic, Atlas Medicine Co., St. Louis, Mo.
Atwood's La Grippe Specific, Excelsior Medicine Co., Chicago, Ill.
Angauer Bitters, Angauer Bitters Co., Chicago, Ill.

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Angauer Kidney-Aid, Angauer Bitters Co., Chicago, Ill.
Augustiner Health and Stomach Bitters, A. M. August, Milwaukee, Wis.
Beef, Iron and Wine, The Jarmuth Co., Providence, R. I.
Beef, Iron and Wine, Lion Drug Co., Buffalo, N. Y.
Beef, Wine and Iron, Chas. C. Miller, Chicago, Ill.
Beimer's Walnut Beverage, Winona Liquor Co. (Inc.), Winona, Minn.
Beimer's Walnut Bitters, Winona Liquor Co. (Inc.), Winona, Minn.
Belvedere Stomach Bitters, Loewy Drug Co., Baltimore, Md.
Bentrovato Blood Bitters and Alterative Tonic, Lyons Bitters Co., New Haven, Conn.
Best Bitters, A. J. Lukwinski, Cleveland, Ohio.
Bismark Laxative Bitters, C. Lange & Co., Chicago, Ill.
Bitter Wine, Struzynski Bros., Chicago, Ill.
Bitters, The Atlantic Vineyard & Vine Co., Philadelphia, Pa.
Blackberry, Karles Medicine Co., Aberdeen, S. Dak.
Blackberry Cordial, International Extract Co., Philadelphia, Pa.
Blackberry Cordial, Irondequoit Wine Co., Rochester, N. Y.
Blackberry Cordial, Strother Drug Co., Lynchburg, Va.
Blackberry and Ginger Cordial, Standard Chemical Co., Fort Smith, Ark.
Black Hawk Bitters, Meyer Bros. Drug Co., St. Louis, Mo.
Bon Campo Bitters, Dr. A. H. Doty, St. Paul, Minn.
Bonekamp Bitters, J. S. Smith & Co., Burlington, Wis.
Bonekamp of Maagen Bitters, Teuscher & Co., St. Louis, Mo.
Bonus Elixir of Bitter Wine, Bonus Drug Co., Duquesne, Pa.
Bracer Bitters, Bracer Bitters Co., Chicago, Ill.
Bradenberger's Colocynthis, Standard Chemical Co., Fort Smith, Ark.
Brod's Celery Pepsin Bitters, Jno. Brod Chemical Co., Chicago, Ill.
Brown Gin, H. Obernauer & Co., Pittsburgh, Pa.
Brown's Aromatic Cordial Bitters, Chas. Leich & Co., sole agents, Evansville, Ind.
Brown's Utryme Tonic, A. E. & E. V. Brown Co., Mobile, Ala.
Buckeye Bitters, Geo. Albert, Milwaukee, Wis.
Buhrers Bitters, Weideman-Fries Co., Cleveland, Ohio.
Cardinal Stomach Bitters, P. J. Bowlin & Son, St. Paul, Minn.
Carmeliter Bitters—Dark—Elixir of Life, Burhenne & Dorn, 347 Hamburg Avenue, Brooklyn, N. Y.
Carmeliter Bitters E-Z Laxative, Burhenne & Dorn, 347 Hamburg Avenue, Brooklyn, N. Y.
Carmeliter Bitters—Light—Tonic and Appetizer, Burhenne & Dorn, 347 Hamburg Avenue, Brooklyn, N. Y.
Carmeliter Ginger Brandy, Burhenne & Dorn, 347 Hamburg Avenue, Brooklyn, N. Y.
Cascara Roots, American Bitter Wine Co., Chicago, Ill.
Cauffman's Ginger Brandy, E. Cauffman & Co., Philadelphia, Pa.
Celebrated Baja California Damiana Bitters, Naber, Alfs & Brune, San Francisco, Cal.
Celery Bitters and Angostura, Frank J. Maus, Kalamazoo, Mich.
Clarke's Rock Candy Cordial, Colburn, Birks & Co., Peoria, Ill.
Clayton & Russell's Stomach Bitters, Adams & Co., New York City.
Clifford's Cherry Cure, Standard Chemical Co., Fort Smith, Ark.
Clifford's Peruvian Elixir, Standard Chemical Co., Fort Smith, Ark.
Cocktail Bitters, Milburn & Co., Baltimore, Md.
Columbo Elixir, Columbo Elixir Co., Philadelphia, Pa.
Columbo Peptic Bitters, L. E. Jung & Co., New Orleans, La.
Columbo Tonic Bitters, Iler & Co., Omaha, Nebr.
Cooper's Nerve Tonic, Muller & Co., Baltimore, Md.
Cordial Panna, The Cordial Panna Co., Cleveland, Ohio.
Cossack Stomach Bitters, D. Vandewart & Son, New York, N. Y.
Cross Bitter Wine, Eugene Parisek Co., Chicago, Ill.
Damana Gentian Bitters, Milburn & Co., Baltimore, Md.
Dandy Bracer, Dandy Bracer Co., Philadelphia, Pa.

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Der Doktor, Schooemer & Stoppenbach, Milwaukee, Wis.
Dr. Bergelt's Magen Bitters, Imported.
Dr. Bouvier's Buchu Gin, Dr. Bouvier's Specialty Co., Louisville, Ky.
Dr. Gray's Tonic Bitters, Central Botanical Co., Cherry Creek, N. Y.
Dr. Hoffman's Golden Bitters, F. Trandt, St. Louis, Mo.
Dr. Hopkins Union Stomach Bitters, F. S. Amidon, Hartford, Conn.
Dr. Hortenbach's Stomach Bitters, Minneapolis Drug Co., Minneapolis, Minn.
Dr. Munro's Stomach Bitters, A. Du Chateau Co., Green Bay, Wis.
Dr. Rattinger's Bitters, Rattinger's Medical Co., Sappington, Mo.
Dr. Sherman's Peruvian Tonic and Systematizer, Des Moines Pharmacal Co., Des Moines, Iowa.
Dr. Theodore Hartwig's Stomach Tonic, Jno. Behrendt, successor to Dr. Theodore Hartwig, Grafton, Wis.
Dozier's Apple Bitters, Bitter Apple Bitters Co., Hattiesburg, Miss.
Dubonnet Wine, imported.
Dubonnet, imported.
Ducro's Alimentary Elixir, imported.
Duffy's Pure Malt Whiskey, Duffy's Malt Whiskey Co., Rochester, N. Y.
Elderberry Tonic, M. P. Kappel & Co., Chicago, Ill.
Elixir of Bitter Wine, Pleasant Tonic Bitters Co., Chicago, Ill.
Elixir of Bitter Wine, V. Bokr, Chicago, Ill.
Eureka Stomach Bitters, Iowa Drug Co., Des Moines, Iowa.
Excelsior Bitters, Des Moines Drug Co., Des Moines, Iowa.
E. Z. Laxative Bitters, Carmeliter Bitters Co., New York, N. Y.
Fabiani's Marsala Chinato, Fabiani's Pharmacy, Philadelphia, Pa.
Famous Wiener Bitters, Foxman Bros., Rock Island, Ill.
Faxon's Beef, Iron and Wine, Faxon, Williams & Faxon, Buffalo, N. Y.
Fernet-Branca, L. Grandolphi & Co., New York City (imp).
Fernet-Carlisi Fernet Bitters, C. Carlisi Co., New York City.
Ferri Rheumatic Cure, Luis Ferri, Butte, Mont.
Ferro-China Bascal, Basilea & Calandra, New York City.
Ferro-China Berna, W. P. Bernagozzi, New York City.
Ferro-China Bissleri (Felice Bissler), imported.
Ferro-China-Blotto, Vittorio Blotto, New York City.
Ferro-China Carlisi Tonic Bitters, C. Carlisi Co., New York City.
Ferro-China-Columbia, Columbia Distilling Co., Albany, N. Y.
Ferro-China-Derna, C. Matalone, Chicago, Ill.
Ferro-China-Florentino, Commercial Wine & Bottling Co., 182 Commercial Street, Boston, Mass.
Ferro-China-Salus, Italo-American Liquor Mfg. Co., New York.
Ferro-China-Trionfo, Basilea & Calandra, New York City.
Ferro-China Universale, Imported.
Ferro-Quina Bitters, D. P. Rossi, San Francisco, Cal.
Fine Old Bitter Wine, Struzynski Bros., Chicago, Ill.
F. Miller & Co.'s Stomach Bitters.
Fort Henry Ginger Compound, Reed, Robb & Breiding, Wheeling, W. Va.
Franz Urban Boonekamp of Maag Bitters, Wm. Straube, 1497 Twenty-fourth Street, Detroit, Mich.
Gastrophan, Edward Rimsa, Chicago, Ill.
Genuine Bohemian Malted Bitter Wine Tonic, Edward Rimsa, Chicago, Ill.
Genuine Herb and Root Bitters, Schloemer & Stoppenbach, Milwaukee, Wis.
Germania Herb, Root, and Fruit Tonic Bitters, Dr. F. G. Nordman, Chicago, Ill.
German Stomach Bitters, Geo. Kuevers, Granite City, Ill.
German Stomach Bitters, Wm. W. Torge, Waukesha, Wis.
Ginger Tonic, Loewy Drug Co., Baltimore, Md.
Graham's Brand Orange Bitters, Chas. Jacquin, New York City.
Green's Chill Tonic, M. V. Green, Selma, N. C.

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Gross Bros. Blood and Liver Tonic, Gross Bros., Illinois.
Harrison's Quinine Tonic, I. X. L. Chemical Co., Chicago, Ill.
Health Bitters, H. Bitzegeio, Chicago, Ill.
Herb Bitters, Otto F. Lenzt, Petersburg, Ill.
Heublein's Calisaya Bitters, G. F. Heublein & Bro., New York City.
Himmalia Tonic, C. O. F. Burkstrom & Co., Chicago, Ill.
*Holland Type Bitters, John Bardenheier Wine & Liquor Co., St. Louis, Mo.
Holtzermann's Bitters, Ahrendt & Sons Co., Toledo, Ohio.
Hop Bitters, Hop Bitters Mfg. Co., Rochester, N. Y.
Horke Vino, H. Obernauer & Co., Pittsburgh, Pa.
Humbolt Stomach Bitters, M. Koenigsberger, Kansas City, Mo.
I. X. L. Bitters, I. X. L. Chemical Co., Chicago, Ill.
Jack Pot Laxative Bitter Tonic, J. B. Scheuer Co., Chicago, Ill.
Jamaica Ginger, Yough Chemical Co., Connellsville, Pa.
Jamaica Type Ginger Drops Compound, V. Gautier & Co., New York City.
Jensen's Celebrated Kidney and Liver Bitters, Hans Jensen Co., Chicago, Ill.
*Jensen Laxative Bitters, Hans Jensen Co., Chicago, Ill.
Jones Stomach Bitters, Natchez Drug Co., Natchez, Miss.
Juniper Kidney Cure, Juniper Kidney Cure Co., Fort Smith, Ark.
*Kaiser Wilhelm Bitters, B. P. Sexton Co., Sandusky, Ohio.
Kapuziner Kloster Bitters, Union Wholesale Liquor Co., Chicago, Ill.
Karle's German Stomach Bitters, Karle German Bitters Co., Aberdeen, S. Dak.
Katarno, Katarno Co., New York City.
Kernel Stomach Bitters, Meyer Bros. Drug Co., St. Louis, Mo.
Koehler's Stomach Bitters, Koehler Bitters Co., New York City.
Kennedy's East India Bitters, Iler & Co., Omaha, Nebr.
Kidniwell, Brown Drug Co., Sioux Falls, S. Dak.
Kil-A-Kol, Pond's Bitters Co., Chicago, Ill.
Kobolo Tonic Stomach Bitters, Kobolo Medicine Co., R. D. Weisskopf & Co., proprietors, 1714 South Ashland Avenue, Chicago, Ill.
Ko-Ca-Ama, The Wm. Brooks Medicine Co., Russellville, Ark.
Kola and Celery Bitters, Milburn & Co., Baltimore, Md.
*Kratos Wine Bitters, Rochester Distilling Co., Rochester, N. Y.
Kreuzberger's Stomach Bitters, H. H. Shufeldt, Peoria, Ill.
Krummel's Bonekamp Maag Bitters, Hry. Krummel, New York City.
Kudros, A. M. Hellmann & Co., St. Louis, Mo.
Laxa Bark Tonic, Natchez Drug Co., Natchez, Miss.
Lee's Celebrated Stomach Bitters, Lee's Anti-Trust Medicine Co., Joplin, Mo.
*Leipziger Burgunder Wein Bitters, Hochstadter Co., New York City.
Lekko Stomach Bitters, Struzynski Bros., Chicago, Ill.
Liverine, T. S. Mitchell Co., Providence, R. I.
Lutz Stomach Bitters, Chas. M. Lutz, Reading, Pa.
Lyons Stomach Bitters, Lyons Bitters Co., Chicago, Ill.
Magador Bitters, E. J. Rose & Co., Tacoma, Wash.
Magen Bitters, A. J. Waberksy, Chicago, Ill.
Magen Bitters, Mrs. Ingeborg Rosmer, Milwaukee, Wis.
Marks' Famous Stomach Bitters, R. Marks, Milwaukee, Wis.
Marvelous Sweeping Model Wine Tonic, Marvelous Sweeping Model Wine Tonic Co., Chicago, Ill.
Mexican Stomach Bitters, Iler & Co., Omaha, Nebr.
Milburn's Kola & Celery Bitters, Milburn & Co., Baltimore, Md.
Miller Brand Bitters, Pure Food Cordial Co., New York City.
Miod Honey Wine, Struzynski Bros., Chicago, Ill.
Nature's Remedy for Kidney Troubles and Blood Poisoning, Dr. J. T. Sumpter, Bowling Green, Ky.
Neuropin, J. B. Scheuer Co., Chicago, Ill.
New Tonic Bitters, Chas. C. Miller, Chicago, Ill.

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Newton's Nutritive Elixir, Parker-Blake Co., New Orleans.
Nibol Laxative Kidney and Liver Bitters, Lobin Distilling Co., St. Louis, Mo.
Novak's Stomach Elixir, Jno. Novak, Chicago, Ill.
*Old Country Bitters, Hans Jensen Co., Chicago, Ill.
Oro Kidney and Liver Tonic, J. B. Scheuer Co., Chicago, Ill.
Our Ginger Brandy, Rex Bitters Co., Chicago, Ill.
Ozark Stomach Bitters, Lee's Anti-Trust Medicine Co., Joplin, Mo.
Pale Orange Bitters, Field, Son & Co., London, England.
Panama Bitters, Richardson Drug Co., Omaha, Nebr.
Panama Bitters, W. R. Reeve, Dorchester, Mass.
Parker's Bitters, Louisiana Distillery Co. (Ltd.), New Orleans, La.
Pater Emanuel's Herb Wine, The Ambrose Co., Bridgeport, Conn.
Peppermint Drops Compound, V. Gautier & Co., New York City.
Pepsin Stomach Bitters (E. L. Arp), Imported.
Peptonic Stomach Bitters, Ross, Flowers & Co., Chicago and New York.
Peruvian Bitters, Reed, Robb & Breiding, Wheeling, W. Va.
Peter Paul Stomach Bitters, Paul P. Fasbender, Detroit, Mich.
Peychaud's Bitter Wine Cordial, L. E. Jung & Co., New Orleans, La.
Pilsener Bitter Wine, Prenstat Bitters Co., West, Tex.
Pioneer Ginger Bitters, Dr. Koehler Medicine Co., Appleton, Wis.
Pond's Ginger Brandy, Pond's Bitters Co., Chicago, Ill.
Pond's Rock and Rye, Pond's Bitters Co., Chicago, Ill.
Quinquina Dubonnet, Imported.
Red Jacket Bitters, Monheimer & Co., Chicago, Ill.
Rex Elixir of Bitter Wine, Rex Bitters Co., Chicago, Ill.
Rex Ginger and Brandy Tonic, Rex Bitters Co., Chicago, Ill.
Rex Ginger, Rex Bitters Co., Chicago, Ill.
Rex Horehound Tonic, Rex Bitters Co., Chicago, Ill.
Rheinstrom's Stomach Bitters, Rheinstrom Bros., Cincinnati, Ohio.
Richard's Celebrated Tonic Bitters, Minneapolis Drug Co., Minneapolis, Minn.
Riley's Kidney Cure, Jas. S. Riley, Hayne, N. C.
Rimsovo Malto-Sovo Vino Chino, Ed. Rimsa, Chicago, Ill.
Rockandy Cough Cure.
Root Plant Medicinal Gin, Lobin Distilling Co., St. Louis, Mo.
Rosolio, The Cordial Tanna Co., Cleveland, Ohio.
Royal Pepsin Tonic, L. & A. Scharff, St. Louis, Mo.
Royal Pepsin Stomach Bitters, L. & A. Scharff, St. Louis, Mo.
S. B. C. Essence of Peppermint, Star Bitters Co., Sacramento, Cal.
S. B. C. Extract of Jamaica Ginger, Star Bitters Co., Sacramento, Cal.
S. B. C. Ginger and Brandy Compound, Star Bitters Co., Sacramento, Cal.
S. B. C. Wild Cherry Tonic, Star Bitters Co., Sacramento, Cal.
Sanitas Stomach Bitters, Sanitas Tonic Medicine Co., Chicago, Ill.
Sarasina Stomach Bitters, Wm. Blech, New York City.
St. Rafael Quinquina, Imported-Scheetz.
Schier's Famous Bitters, Wendelin Schier, Alexandria, Ind.
Schmit's Celebrated Strengthening Bitters, Schmit Pharmacal Co., Evansville, Ind.
Schroeder's German Bitters, Milburn & Co., Baltimore, Md.
Schuster's Bitters with Pepsin, The Schuster Co., Cleveland, Ohio.
Serravallo's Tonic, J. Serravallo's Pharmacy, Trieste, Austria.
Simon's Aromatic Stomach Bitters, Samuel B. Schein, St. Paul, Minn.
Sirena Tonic, Sirena Manufacturing Co., New York City.
Smart Weed, Francis Cropper Co., Chicago, Ill.
Smith's Bitters, Van Natta Drug Co., St. Joseph, Mo.
Smith's Vitalizing Bitters, Ben Smith, Scranton, Pa.
Smyrna Bitters, Smyrna Bitters Co., Dayton, Ohio.
Steinkonig's Stomach Bitters, Adam Steinkonig, Cincinnati, Ohio.
Stomach Bitters, Imported by J. G. & J. Boker, New York City.

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Strauss Exhilarator, Wm. H. Strauss, Reading, Pa.
Sure Thing Tonic, Furst Bros., Cincinnati, Ohio.
Tatra, B. Zeman, Chicago, Ill.
* Three-in-One (3 in 1) Tonic, Fialla & Eppler (Inc.), New York City.
Tokay Quinine Iron Wine, Burger & Erdeky, Chicago, Ill.
Tolu Rock and Rye.
Tolu Rock Candy Cordial, Meyer Bros. Drug Co., St. Louis, Mo.
True's Magnetic Cordial, Standard Chemical Co., Fort Smith, Ark.
U-Go, Fritz T. Schmidt & Sons, Davenport, Iowa.
Uncle Josh's Dyspepsia Cure, Dr. Worthington's Drug Co., Birmingham, Ala.
Underberg's Boonekamp Maag Bitters, Imported by Luyties Bros., New York City.
Vermouth Stomach Bitters, Lobin Distilling Co., St. Louis, Mo.
Vigo Bitters, F. C. Altmeier & Co., Chicago, Ill.
Vigor-lix, Greenbaum Bros., Louisville, Ky.
Vin de Michael, Imported.
Vin Mariani, Mariani & Co., New York City.
Walker's Tonic, Dreyfuss, Veil & Co., Paducah, Ky.
Webb's A No. 1 Tonic, Webb's Cooperative Co., Sacramento, Cal.
Westphalia Stomach Bitters, E. R. Behlers, St. Louis, Mo.
White Cross Bitters, V. Gautier, New York City.
Williams' Kidney Relief, Parker, Blake & Co., New Orleans, La.
Wine of Chenstohow, Skarzynski & Co., Buffalo, N. Y.
Wine of Pomelo, with Beef and Iron, Irondequoit Wine Co., Rochester, N. Y.
Wine Zdrowia, American Bitter Wine Co., Chicago, Ill.
Woodbury Brand Bitters, Steinhart Bros. & Co., New York City.
Zeman's Medicinal Bitter Wine, B. Zeman, Chicago, Ill.
Zien Stomach Bitters, Zien Bros., Milwaukee, Wis.
Ziz-Zag, Walker's Tonic Co., Paducah, Ky.

Manufacturers of the preparations listed herein can not legally use in such manufacture distilled spirits produced from materials fermented after September 8, 1917, nor distilled spirits taxable at the rate of $2.20 per gallon.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2545.)

Allowances for losses in bonded warehouses.

Allowance for loss of wines at bonded wineries and bonded storerooms not to exceed 3½ per cent of the quantity removed tax paid.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 16, 1917.

COLLECTOR INTERNAL REVENUE,
New Orleans, La.

SIR: (1) This office acknowledges the receipt of your letter of the 17th instant, inclosing a copy of a letter from the California Wine Association relative to allowance for loss by evaporation claimed as to wine received and disposed of from November 11, 1916, to August 25, 1917. You state that very little of this wine was on storage for

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more than six months and ask to be advised relative to what allowance may be made.

(2) In reply, you are informed that an allowance not exceeding 3½ per cent *of the quantity of wines removed tax paid* will be made for shrinkage, evaporation, soakage, and breakage at both bonded wineries and bonded storerooms.

(3) This office has held that wines in transit are entitled to the same allowance as wines on storage; and therefore losses occurring in transit will be included in this allowance, not exceeding 3½ per cent. In order that there may be no confusion in the records of the different bonded premises between which wines are shipped in bond, the proprietors of the bonded premises to which the wines are shipped should take up on their monthly reports the exact quantity reported shipped; unless there has been a large loss in transit caused by accident or other casualty, in which case a claim should be immediately forwarded to the Commissioner of Internal Revenue, as set forth in paragraph 9 relative to excessive losses.

(4) In order to relieve the winemaker and bonded dealer from taking inventory of stock each month for the purpose of determining the actual loss by shrinkage, etc., during the month for which the return (Form 702) is rendered, a conditional allowance of 3½ per cent of the quantity of wine removed tax paid during the month will be made, subject to such corrections as may be found necessary upon the taking of the inventory at the close of each business year, as provided in paragraphs 5 and 6.

(5) Every wine maker and every bonded dealer will annually at the close of each business year take an inventory of all wines under each rate of tax actually remaining on their premises at that time, and will notify the collector of the district in which the bonded premises is located of the date on which said inventory is to be taken each year.

(6) On the last page of Form 702 for the month during which the inventory is taken a statement will be made in red ink showing the quantity of wine under each rate of tax on hand at the date the inventory is taken, according to the records on Form 702, and also the quantity of wine actually found to be on hand according to the inventory. Any excess or deficiency should also be shown, as in the statement below:

	Not over 14 per cent.	Over 14 per cent but not over 21 per cent.	Over 21 per cent but not over 24 per cent.
On hand:[1]			
Per Form 702	40,000	50,000	1,000
Per inventory	40,500	48,500	1,000
Excess found (per inventory)	500	.....	.....
Deficiency found (per inventory)	.....	1,500	.....

[1] Here fill in date on which inventory is taken.

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(7) Where the quantity found to be actually on hand is in excess of that reported in the summary on Form 702, such excess will be charged back in the account by entering the same in red ink on a line following the first line in the summary, which states the amount on hand the first day of the month, and will be charged as "Excess as per inventory." The quantity reported as on hand the last day of the month will then be the quantity actually on hand on that date.

(8) If, on the other hand, the quantity found to be on hand is less than the quantity reported on hand (which has been determined by deducting the estimated allowance on tax-paid withdrawals above provided for), the tax on such deficiencies will be assessed and collected, unless allowance is made as provided in paragraph 9.

(9) Where loss, as above stated, is claimed in addition to 3½ per cent of the quantity of wines removed tax paid, or where an allowance is asked on account of accidental loss by fire or other casualty, such claims must be supported by sworn statements fully setting forth the cause, nature, and extent of the loss, and must be certified to by the collector of the district before being transmitted to the Commissioner of Internal Revenue.

(10) The allowance for losses occurring since September 8, 1916, will be computed on the quantity of wines removed tax paid since that date, as provided above.

(11) Article 16 of supplement No. 2, regulations No. 28, is hereby amended accordingly.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2546.)

Special tax—Retail liquor dealers compounding spirits.

Any retail liquor dealer who manufactures compound liquors, except to fill bar orders previously received, held liable as rectifier.—T. D. 1014 of June 19, 1906, revoked.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 23, 1917.

To collectors of internal revenue and others concerned:

In T. D. 1014, dated June 19, 1906, and at other times it has been held that a retail liquor dealer may manufacture compound liquors in quantities not exceeding 5 gallons and keep them for his own convenience in filling orders received at the bar without being charged with liability to special tax as rectifier.

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In view of the tax of 15 cents per proof gallon imposed by section 304 of the act of October 3, 1917, upon all mixtures produced in such manner as to cause the person mixing them to be a rectifier within the meaning of section 3244, Revised Statutes, it has been deemed advisable to withdraw the privilege thus extended to retailers.

You are accordingly directed to give publicity among the liquor trade to the position now taken by this office, which is that any person who manufactures a compound liquor in such manner as to bring him within the definition of a rectifier contained in the said section 3244 shall be considered liable to special tax as such, except, of course, that a person manufacturing a compound liquor for personal consumption, and not for sale, shall not be charged with liability; nor shall a retail liquor dealer so long as he does no compounding in advance of sale, but compounds solely to fill orders for drinks received at the bar, after such orders have been received.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2547.)

War-revenue law.

Synopsis of decisions on questions relating to the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1917.

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Admissions and dues.—(1) The tax imposed by section 700 attaches upon subscriptions to racing associations regardless of whether or not the subscriber attends any of the meets. The association itself may pay the tax due for persons admitted free. The provision of the section which allows "bona fide employees" to be admitted tax free applies only to actual employees of the association and not to employees of the owners of racing horses, etc.

(2) The word "proceeds" as used in section 700 means gross receipts less payments of proper expenses, or, in other words, "net proceeds." If the net proceeds "inure exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations," no tax is collectible on the admissions.

Distilled spirits tax paid on October 2, 1917, but spirits not withdrawn prior to the approval of war-revenue act.—The date of withdrawal

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by distillers controls, and since the spirits were not withdrawn prior to the inception of the new legislation they can not now lawfully be withdrawn until the full tax under the new law is paid.

Exemption of $200 for each child.—An additional exemption of $200 provided for by the act for each child applies to the normal tax of 2 per cent imposed by the act of September 8, 1916, and to the additional normal tax of 2 per cent imposed by the act of October 3, 1917.

Floor tax—Sections 600, 601, and 602.—(1) Alcohol held on October 3, 1917, by manufacturers of proprietary medicines for use in manufacture as an ingredient in the manufacture of medicines is subject to the floor tax, unless on the day the act took effect it was in process of manufacture and had been rendered unfit for beverage purposes.

(2) Where a corporation operates one or more retail stores and under the same name, but separately as far as bookkeeping and stock keeping are concerned, the corporation's inventory return of stock on hand should include only that in the wholesale department. Where the bookkeeping and stock keeping of the wholesale and retail departments of establishments are kept separate, they will be regarded as if they were separate and distinct departments, and the retail stock will not be subject to the floor tax.

(3) Goods shipped and invoiced prior to October 4 are the property of the consignee and if shipped to a wholesaler are subject to the floor tax. If, however, title is reserved in the manufacturer, he is subject to the manufacturer's tax and the wholesaler is relieved from the floor tax. The time when title passes depends upon the intention of the parties. In the absence of an intention to the contrary, title is assumed to pass from the seller to the buyer upon the delivery of the goods to the carrier.

(4) Where a manufacturer consigns his entire product to a retailer, retaining ownership in the same until disposed of by the retailer, the manufacturer is required to make return, under oath, of all goods sold to the retailer from and after October 4, and to enable him to do so he must secure monthly returns from the retailer of the goods sold

On and after passage of the act.—The war revenue taxes on distilled spirits, fermented liquors, and wines removed from the place of production or storage in bond take effect "on and after the passage of this act." This means on and after the morning of October 4, 1917.

Sales, excise taxes on—Sections 600, 601, and 602.—(1) Are goods manufactured in the United States and sold to persons in foreign countries subject to the tax?

There is no exemption in favor of goods which are to be exported. The United States Supreme Court in numerous cases has held that such a tax does not constitute a tax on exports, or on articles exported, within the meaning of the Constitution. "A general tax, laid on all property alike and not levied on goods in course of exportation, nor

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because of their intended exportation, is not within the constitutional prohibition." Turpin *v.* Burgess (117 U. S., 504).

(2) In computing the price at which goods are sold may the usual trade discounts be deducted from the price thereof for the purpose of ascertaining the tax?

The amount of tax is determined by the price at which the goods are actually sold by the manufacturer, producer, or importer. Hence discounts would be deducted from the list price.

(3) Are net or gross sales to be reported? That is, may there be deducted from the sales of each month merchandise which has been sold in a previous month and which is returned during the month in which the report is made?

The merchandise becomes taxable when the manufacturer parts with his title in it, and all taxable goods actually sold should be reported. However, goods which are delivered to the buyer subject to his approval or to other conditions, and the property right to them is reserved to the seller, are not to be reported until the completion of the sale.

(4) In the case of parts of golf clubs sold to golf professionals in the rough—that is, iron heads, wooden heads, leather straps for handles and shafts—and these separate parts are assembled by the professional and the completed club sold by him, who is the manufacturer of the golf club and when is this tax payable?

"Iron heads," "wooden heads," etc., are not golf clubs, neither are they parts of games within the meaning of the statute. The one who produces the finished product is the manufacturer and is charged with the tax.

(5) A manufacturing company disposes of a portion of its output through a selling corporation, of which it owns all the capital stock. Is the transfer by the parent company to the subsidiary a sale within the meaning of the act subjecting the parent company to the tax?

The transfer from the manufacturing corporation to the selling corporation is a sale, provided the price at which the article is sold or charged to the distributing corporation is no less than is charged to the independent outside distributors under similar conditions. The selling corporation is liable to the floor tax on all articles subject to tax which have been charged and delivered to it prior to October 4, 1917, and thereafter the manufacturing company should pay tax upon delivery of all articles to the selling corporation as upon sales, the price fixed in no case to be less than the price at which the taxable article is sold to independent distributors under similar conditions.

Thirty days after passage of act—Sections 400, 401, and 404.—These sections take effect on the thirtieth day after October 3, viz, November 2, 1917.

Withholding of tax on income of foreign corporations on and after October 4, 1917.—Paying agents of interest on bonds of domestic cor-

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porations owned by foreign corporations not engaged in business in the United States and having no office or place of business therein are required to deduct and withhold the tax of 6 per cent on and after October 4, 1917.

(T. D. 2548.)

Distilled spirits.

Various changes in regulations relating to marking, branding, and stamping.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1917.

To collectors of internal revenue,
rectifiers, and others interested:

Section 304 of the new revenue measure provides, among other things, that—

All distilled spirits taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

Hereafter, therefore, all products of rectification from molasses, spirits, or spirits other than grain at rectifying houses, will be marked and branded in the same manner as spirits derived from grain. All regulations in conflict herewith are accordingly revoked.

In Mim. 1613, dated September 12, 1917, the following instruction occurs in regard to the collection of the 15-cent tax on rectified spirits:

The tax is to be computed on the proof gallons, which include two decimal places and which should be written in the body of the stamp by the officer issuing same.

This instruction is hereby modified so as to read as follows:

The tax is to be computed on the proof gallons, but the second decimal place is to be disregarded following the practice authorized in taxpaying spirits at distilleries, and the proof gallons will be written in the body of the stamp by the officer issuing same.

Section 305 of said measure provides as follows:

That hereafter collectors of internal revenue shall not furnish wholesale liquor dealers' stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, transfer brandy * * * and export fermented liquor stamps.

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Collectors will decline to furnish wholesale liquor dealers' stamps in lieu of or in exchange for stamps for rectified spirits unless the package covered by the stamp for rectified spirits is to be broken into smaller packages. Packages properly protected by stamps for rectified spirits must not be changed into wholesale liquor dealers' packages except where subdivision of the contents is absolutely necessary for commercial reasons. This will make it necessary for bottlers of rectified spirits (unless they are willing to subdivide the original ractifier's package) to bottle directly from the package covered by stamps for rectified spirits, which may be of large capacity, not exceeding, however, 500 gallons, and which may be covered by more than one stamp, if necessary, to denote the entire quantity.

While the present edition of stamps is being used it will be necessary for rectifiers to draw their product into packages of sufficient size so that the contents will amount to not less than 5 proof gallons, which is the least quantity that can be covered by the current edition of stamps. Where packages of rectified spirits contain between 5 and 10 gallons, it will be necessary for the rectifier, in applying for tax-paid stamps, to adjust the wantage so that the tenths of a gallon will be less than 5, inasmuch as the figures on the right side of the coupons do not run higher than the figure 4.

Under the section above quoted, the use of distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, and transfer brandy stamps is hereby discontinued, such discontinuance to be effective on and after November 1, 1917.

In lieu of the warehouse stamps heretofore required on the heads of packages of distilled spirits when entered into warehouse the gauging officer who performs the entry gauge will, without the presence of any other officer, affix his canceling stencil in the same relative position as heretofore. No number of a distillery warehouse stamp will be marked on the head of the package, but all other required marks and brands will be placed thereon as heretofore. Like practice will obtain in reference to special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, and transfer brandy stamps—that is to say, the stamps will be omitted from the head and all reference thereto will be omitted from the marks, but in lieu of the stamp the canceling stencil of the gauging officer will be applied to the head as above required.

Inasmuch as the discontinuance of export stamps for fermented liquors would affect the present method of accounting for export fermented liquors, it is not deemed expedient for the present to require the discontinuance of the use of such stamps.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2549.)

Income tax act of September 8, 1916, as amended by act of October 3, 1917, and war income tax act of October 3, 1917, effective October 4, 1917, except as otherwise provided.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 20, 1917.

To collectors of internal revenue and others concerned:

The appended extracts from the act of Congress, approved September 8, 1916, as amended by act of Congress approved October 3, 1917 (an act to increase the revenue, and for other purposes), and extracts from an act of Congress, approved October 3, 1917 (an act to provide revenue to defray war expenses, and for other purposes), are published for the information of internal-revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

[Public No. 271, 64th Congress—H. R. 16763.]

AN ACT To increase the revenue, and for other purposes.

TITLE I.—INCOME TAX.

PART I.—ON INDIVIDUALS.

SEC. 1. (a) That there shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources by every individual, a citizen or resident of the United States, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources within the United States by every individual, a nonresident alien, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise.

(b) In addition to the income tax imposed by subdivision (a) of this section (herein referred to as the normal tax) there shall be levied, assessed, collected, and paid upon the total net income of every individual, or, in the case of a nonresident alien, the total net income received from all sources within the United States, an additional ncome tax (herein referred to as the additional tax) of one per centum per annum upon the amount by which such total net income exceeds $20,000 and does not exceed $40,000, two per centum per annum upon the amount by which such total net income exceeds $40,000 and does not exceed $60,000, three per centum per annum upon the amount by which such total net income exceeds $60,000 and does not exceed $80,000, four per centum per annum upon the amount by which such total net income exceeds $80,000 and does not exceed $100,000, five per centum per annum upon the amount by which such total net income exceeds $100,000 and does not exceed $150,000, six per centum per annum upon the amount by which such total net income exceeds $150,000 and does not exceed $200,000, seven per centum per annum upon the amount by which such total net income exceeds $200,000 and does not exceed $250,000, eight per centum per annum upon the amount by which such total net

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income exceeds $250,000 and does not exceed $300,000, nine per centum per annum upon the amount by which such total net income exceeds $300,000 and does not exceed $500,000, ten per centum per annum upon the amount by which such total net income exceeds $500,000 and does not exceed $1,000,000, eleven per centum per annum upon the amount by which such total net income exceeds $1,000,000 and does not exceed $1,500,000, twelve per centum per annum upon the amount by which such total net income exceeds $1,500,000 and does not exceed $2,000,000, and thirteen per centum per annum upon the amount by which such total net income exceeds $2,000,000.

For the purpose of the additional tax there shall be included as income the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of nonresident aliens such income derived from sources without the United States shall not be included.

All the provisions of this title relating to the normal tax on individuals, so far as they are applicable and are not inconsistent with this subdivision and section three, shall apply to the imposition, levy, assessment, and collection of the additional tax imposed under this subdivision.

(c) The foregoing normal and additional tax rates shall apply to the entire net income, except as hereinafter provided, received by every taxable person in the calendar year nineteen hundred and sixteen and in each calendar year thereafter.

INCOME DEFINED.

SEC. 2. (a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

(b) Income received by estates of deceased persons during the period of administration or settlement of the estate, shall be subject to the normal and additional tax and taxed to their estates, and also such income of estates or any kind of property held in trust, including such income accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests, and income held for future distribution under the terms of the will or trust shall be likewise taxed, the tax in each instance, except when the income is returned for the purpose of the tax by the beneficiary, to be assessed to the executor, administrator, or trustee, as the case may be: *Provided*, That where the income is to be distributed annually or regularly between existing heirs or legatees, or beneficiaries the rate of tax and method of computing the same shall be based in each case upon the amount of the individual share to be distributed.

Such trustees, executors, administrators, and other fiduciaries are hereby indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this title, and they shall have credit for the amount of such payments against the beneficiary or principle in any accounting which they make as such trustees or other fiduciaries.

(c) For the purpose of ascertaining the gain derived from the sale or other disposition of property, real. personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived.

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ADDITIONAL TAX INCLUDES UNDISTRIBUTED PROFITS

SEC. 3. For the purpose of the additional tax, the taxable income of any individual shall include the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company or association, or insurance company, is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company or association, or insurance company shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed.

INCOME EXEMPT FROM LAW.

SEC. 4. The following income shall be exempt from the provisions of this title:

The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a State or any political subdivision thereof or upon the obligations of the United States (but, in the case of obligations of the United States issued after September first, nineteen hundred and seventeen, only if and to the extent provided in the Act authorizing the issue thereof)[1] or its possessions or securities issued under the provisions of the Federal Farm Loan Act of July seventeenth, nineteen hundred and sixteen; the compensation of the present President of the United States during the term for which he has been elected and the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State, or any political subdivision thereof, except when such compensation is paid by the United States Government.

DEDUCTIONS ALLOWED.

SEC. 5. That in computing net income in the case of a citizen or resident of the United States—

(a) For the purpose of the tax there shall be allowed as deductions—

First. The necessary expenses actually paid in carrying on any business or trade, not including personal, living, or family expenses;

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[1] Public No. 43, 65th Congress (H. R. 5901) An Act to authorize an additional issue of bonds to meet expenditures for the national security and defense, and for other purposes.—Approved Sept. 24, 1917.

SEC. 7. That none of the bonds authorized by section one, nor of the certificates authorized by section five, or by section six, of this Act, shall bear the circulation privilege. All such bonds and certificates shall be exempt, both as to principal and interest from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) *estate or inheritance taxes*, and (b) *graduated additional income taxes*, commonly known as surtaxes, and *excess profits and war-profits taxes*, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of such bonds and certificates the *principal of which does not exceed in the aggregate $5,000*, owned by any individual, partnership, association, or corporation, *shall be exempt* from the taxes provided for in subdivision (b) of this section.

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Second. All interest paid within the year on his indebtedness except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title;

Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes) or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits;

Fourth. Losses actually sustained during the year, incurred in his business or trade, or arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the loss sustained from the sale or other disposition of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom;

Sixth. Debts due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade;

Eighth. (a) In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowances authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Ninth. Contributions or gifts actually made within the year to corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or to societies for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of fifteen per centum of the taxpayer's taxable net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

CREDITS ALLOWED.

(b) For the purpose of the normal tax only, the income embraced in a personal return shall be credited with the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company or association, trustee, or insurance company, which is taxable upon its net income as hereinafter provided;

(c) A like credit shall be allowed as to the amount of income, the normal tax upon which has been paid or withheld for payment at the source of the income under the provisions of this title.

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NONRESIDENT ALIENS.

SEC. 6. That in computing net income in the case of a nonresident alien—

(a) For the purpose of the tax there shall be allowed as deductions—

First. The necessary expenses actually paid in carrying on any business or trade conducted by him within the United States, not including personal, living, or family expenses;

Second. The proportion of all interest paid within the year by such person on his indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) which the gross amount of his income for the year derived from sources within the United States bears to the gross amount of his income for the year derived from all sources within and without the United States, but this deduction shall be allowed only if such person includes in the return required by section eight all the information necessary for its calculation;

Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes) or of its Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;

Fourth. Losses actually sustained during the year, incurred in business or trade conducted by him within the United States, and losses of property within the United States arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the amount of such loss or losses sustained in trade, or speculative transactions not in trade, from the same or any kind of property acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss or losses sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom in the United States;

Sixth. Debts arising in the course of business or trade conducted by him within the United States due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property within the United States arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) There shall also be allowed the credits specified by subdivisions (b) and (c) of section five.

(c) A nonresident alien individual shall receive the benefit of the deductions and credits provided for in this section only by filing or causing to be filed with the collector

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of internal revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the United States, in the manner prescribed by this title; and in case of his failure to file such return the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax.

PERSONAL EXEMPTION.

SEC. 7. That for the purpose of the normal tax only, there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each citizen or resident of the United States, ascertained as provided herein, the sum of $3,000, plus $1,000 additional if the person making the return be a head of a family or a married man with a wife living with him, or plus the sum of $1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of $1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of $4,000 shall be made from the aggregate income of both husband and wife when living together: *Provided further*, That if the person making the return is the head of a family there shall be an additional exemption of $200 for each child dependent upon such person, if under eighteen years of age, or if incapable of self-support because mentally or physically defective, but this provision shall operate only in the case of one parent in the same family: *Provided further*, That guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or cestui que trust: *Provided further*, That in no event shall a ward or cestui que trust be allowed a greater personal exemption than as provided in this section, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased citizens or residents of the United States during the period of administration or settlement, and of trust or other estates of citizens or residents of the United States the income of which is not distributed annually or regularly under the provisions of subdivision (b) of section two, the sum of $3,000, including such deductions as are allowed under section five.

(b) [Repealed.]

RETURNS.

SEC. 8. (a) The tax shall be computed upon the net income, as thus ascertained, of each person subject thereto, received in each preceding calendar year ending December thirty-first

(b) On or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, a true and accurate return under oath shall be made by each person of lawful age, except as hereinafter provided, having a net income of $3,000 or over for the taxable year to the collector of internal revenue for the district in which such person has his legal residence or principal place of business, or if there be no legal residence or place of business in the United States, then with the collector of internal revenue at Baltimore, Maryland, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources, and from the total thereof deducting the aggregate items of allowances herein authorized: *Provided*, That the Commissioner of Internal Revenue shall have authority to grant a reasonable extension of time, in meritorious cases, for filing returns of income by persons residing or traveling abroad who are required to make and file returns of income and who are unable to file said returns on or before March first of each year: *Provided further*, That the aforesaid return may be made by an agent when by reason of illness, absence, or nonresidence the person liable for said return is unable to make and render the same, the agent assuming the responsibility of making the return and incurring penalties provided for erroneous, false, or fraudulent return.

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(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations, acting in any fiduciary capacity, shall make and render a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this title which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this title which apply to individuals: *Provided*, That a return made by one of two or more joint fiduciaries filed in the district where such fiduciary resides, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph: *Provided further*, That no return of income not exceeding $3,000 shall be required except as in this title otherwise provided.

(d) [Repealed.]

(e) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this title: *Provided*, That from the net distributive interests on which the individual members shall be liable for tax, normal and additional, there shall be excluded their proportionate shares received from interests on the obligations of a State or any political or taxing subdivision thereof, and upon the obligations of the United States (if and to the extent that it is provided in the Act authorizing the issue of such obligations of the United States that they are exempt from taxation), and its possessions, and that for the purpose of computing the normal tax there shall be allowed a credit, as provided by section five, subdivision (b), for their proportionate share of the profits derived from dividends. Such partnership, when requested by the Commissioner of Internal Revenue or any district collector, shall render a correct return of the earnings, profits, and income of the partnership, except income exempt under section four of this Act, setting forth the item of the gross income and the deductions and credits allowed by this title, and the names and addresses of the individuals who would be entitled to the net earnings, profits, and income, if distributed. A partnership shall have the same privilege of fixing and making returns upon the basis of its own fiscal year as is accorded to corporations under this title. If a fiscal year ends during nineteen hundred and sixteen or a subsequent calendar year for which there is a rate of tax different from the rate for the preceding calendar year, then (1) the rate for such preceding calendar year shall apply to an amount of each partner's share of such partnership profits equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rate for the calendar year during which such fiscal year ends shall apply to the remainder.

(f) In every return shall be included the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of nonresident aliens such income derived from sources without the United States shall not be included.

(g) An individual keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make his return upon the basis upon which his accounts are kept, in which case the tax shall be computed upon his income as so returned.

ASSESSMENT AND ADMINISTRATION.

SEC. 9. (a) That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said amounts shall be paid on or before the fifteenth day of June, except in cases of refusal or neglect

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to make such return and in cases or erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, or has been made, make a return upon information obtained as provided for in this title or by existing law, or require the necessary corrections to be made, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid, and interest at the rate of one per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

(b) All persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income of any nonresident alien individual, other than income derived from dividends on capital stock, or from the net earnings of a corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title, are hereby authorized and required to deduct and withhold from such annual or periodical gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this title, and shall make return thereof on or before March first of each year and, on or before the time fixed by law for the payment of the tax, shall pay the amount withheld to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax, and they are each hereby indemnified against every person, corporation, partnership, association, or insurance company, or demand whatsoever for all payments which they shall make in pursuance and by virtue of this title.

(c) The amount of the normal tax hereinbefore imposed shall also be deducted and withheld from fixed or determinable annual or periodical gains, profits and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies (if such bonds, mortgages, or other obligations contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee or to reimburse the obligee for any portion of the tax or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States), whether payable annually or at shorter or longer periods and whether such interest is payable to a nonresident alien individual or to an individual citizen or resident of the United States, subject to the provisions of the foregoing subdivision (b) of this section requiring the tax to be withheld at the source and deducted from annual income and returned and paid to the Government, unless the person entitled to receive such interest shall file with the withholding agent, on or before February first, a signed notice in writing claiming the benefit of an exemption under section seven of this title.

(d) [Repealed.]

(e) [Repealed.]

(f) All persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to obtain the information required under this title, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall

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prescribe; and whoever knowingly undertakes to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding $5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

(g) The tax herein imposed upon gains, profits, and incomes not falling under the foregoing and not returned and paid by virtue of the foregoing or as otherwise provided by law shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. The intent and purpose of this title is that all gains, profits, and income of a taxable class, as defined by this title, shall be charged and assessed with the corresponding tax, normal and additional, prescribed by this title, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control, or disposal of the same. For the purpose of this title ownership or liability shall be determined as of the year for which a return is required to be rendered.

The provisions of this section, except subdivision (c), relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon nonresident alien individuals.

Part II.—On Corporations.

Sec. 10. (a) That there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company or association, or insurance company, organized in the United States, no matter how created or organized, but not including partnerships, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies, whose net income is taxable under this title.

The foregoing tax rate shall apply to the total net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and sixteen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rate shall apply to the proportion of the total net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, which the period between January first, nineteen hundred and sixteen, and the end of such fiscal year bears to the whole of such fiscal year, and the rate fixed in Section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," shall apply to the remaining portion of the total net income returned for such fiscal year.

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition by a corporation, joint-stock company or association, or insurance company, of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived or loss sustained.

(b) In addition to the income tax imposed by subdivision (a) of this section there shall be levied, assessed, collected, and paid annually an additional tax of ten per centum upon the amount, remaining undistributed six months after the end of each

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calendar or fiscal year, of the total net income of every corporation, joint-stock company or association, or insurance company, received during the year, as determined for the purposes of the tax imposed by such subdivision (a), but not including the amount of any income taxes paid by it within the year imposed by the authority of the United States

The tax imposed by this subdivision shall not apply to that portion of such undistributed net income which is actually invested and employed in the business or is retained for employment in the reasonable requirements of the business or is invested in obligations of the United States issued after September first, nineteen hundred and seventeen: *Provided*, That if the Secretary of the Treasury ascertains and finds that any portion of such amount so retained at any time for employment in the business is not so employed or is not reasonably required in the business a tax of fifteen per centum shall be levied, assessed, collected, and paid thereon.

The foregoing tax rates shall apply to the undistributed net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and seventeen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rates shall apply to the proportion of the taxable undistributed net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and seventeen, which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year.

CONDITIONAL AND OTHER EXEMPTIONS.

SEC. 11. (a) That there shall not be taxed under this title any income received by any—

First. Labor, agricultural, or horticultural organization;

Second. Mutual savings bank not having a capital stock represented by shares;

Third. Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Fourth. Domestic building and loan association and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Farmers', fruit growers', or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

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Twelfth. Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; or

Thirteenth. Federal land banks and national farm-loan associations as provided in section twenty-six of the Act approved July seventeenth, nineteen hundred and sixteen, entitled "An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes."

Fourteenth. Joint stock land banks as to income derived from bonds or debentures of other joint stock land banks or any Federal land bank belonging to such joint stock land bank.

(b) There shall not be taxed under this title any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: *Provided*, That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this title, entered in good faith into a contract with any person or corporation, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this title upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

DEDUCTIONS.

SEC. 12. (a) In the case of a corporation, joint-stock company or association, or insurance company, organized in the United States, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources—

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends

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paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding: *Provided*, That for the purpose of this title preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall not be deductible from gross income: *Provided further*, That in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares: *Provided further*, That in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company shall be deducted;

Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits.

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(b) In the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources within the United States—

First. All the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

Second. All losses actually sustained within the year in business or trade conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) and in the case (a) of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within

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and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the United States and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof;

Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits.

(c) In the case of assessment insurance companies, whether domestic of foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

RETURNS.

SEC. 13. (a) The tax shall be computed upon the net income, as thus ascertained, received within each preceding calendar year ending December thirty-first: *Provided*, That any corporation, joint-stock company or association, or insurance company, subject to this tax, may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the first day of March of the year in which its return would be filed if made upon the basis of the calendar year;

(b) Every corporation, oint-stock company or association, or insurance company, subject to the tax herein imposed, shall, on or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, or, if it has designated a fiscal year for the computation of its tax, then within sixty days after the close of such fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, and the close of each such fiscal year thereafter, render a true and accurate return of its annual net income in the manner and form to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and containing such facts, data, and information as are appropriate and in the opinion of the commissioner necessary to determine the correctness of the net income returned and to carry out the provisions of this title. The return shall be sworn to by the president, vice president, or other principal officer, and by the treasurer or assistant treasurer. The return shall be made to the collector of the district in which is located the principal office of the corporation, company, or association, where are kept its books of account and other data from which the return is prepared, or in the case of a foreign corporation, company, or association, to the collector of the district in which is located its principal place of business in the United States, or if it have no principal place of business, office, or agency in the United States, then to the collector of internal revenue at Baltimore, Maryland. All such returns shall as received be transmitted forthwith by the collecto· to the Commissioner of Internal Revenue;

(c) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, joint-stock companies or associations, or insurance companies, subject to tax imposed by this title, such receivers, trustees, or assignees shall make returns of net income as and for such corporations, joint-stock

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companies or associations, and insurance companies, in the same manner and form as such organizations are hereinbefore required to make returns, and any income tax due on the basis of such returns made by receivers, trustees, or assignees shall be assessed and collected in the same manner as if assessed directly against the organizations of whose businesses or properties they have custody and control;

(d) A corporation, joint-stock company or association, or insurance company, keeping account upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make its return upon the basis upon which its accounts are kept, in which case the tax shall be computed upon its income as so returned;

(e) All the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to the tax imposed by subdivision (a) of section ten upon incomes derived from interest upon bonds and mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, not engaged in business or trade within the United States and not having any office or place of business therein.

(f) Likewise, all the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to income derived from dividends upon the capital stock or from the net earnings of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien companies, corporations, joint-stock companies or associations, and insurance companies not engaged in business or trade within the United States and not having any office or place of business therein.

ASSESSMENT AND ADMINISTRATION.

SEC. 14. (a) All assessments shall be made and the severa corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the fifteenth day of June: *Provided*, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and five days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this title or by existing law; and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, or after one hundred and five days from the date on which the return of income is required to be made by the taxpayer, and after ten days' notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid and interest at the rate of one per centum per month upon said tax from the time the same becomes due: *Provided*, That upon the examination of any return of income made pursuant to this title, the

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Act of August fifth, nineteen hundred and nine, entitled, "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes," and the Act of October third, nineteen hundred and thirteen, entitled, "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," if it shall appear that amounts of tax have been paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding the provisions of section thirty-two hundred and twenty-eight of the Revised Statutes;

(b) When the assessment shall be made, as provided in this title, the returns together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company or association, or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe;

(c) If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding $10,000: *Provided*, That the Commissioner of Internal Revenue shall have authority, in the case of either corporations or individuals, to grant a reasonable extension of time in meritorious cases, as he may deem proper.

(d) That section thirty-two hundred and twenty-five of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"SEC. 3225. When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that the said list, statement, or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this section shall not apply to statements or returns made or to be made in good faith under the laws of the United States regarding annual depreciation of oil or gas wells and mines."

PART III.—GENERAL ADMINISTRATIVE PROVISIONS.

SEC. 15. That the word "State" or "United States" when used in this title shall be construed to include any Territory, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

SEC. 16. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any

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income return or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the thirty-first day of July in each year, (2) in case of income tax on or before the first day of March in each year, or on or before the last day of the sixty-day period next following the closing date of the fiscal year for which it makes a return of its income, and (3) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of prope ty, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any

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objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions.

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. Any return or list so made and subscribed by a collector or deputy collector shall be prima facie good and sufficient for all legal purposes.

"If the failure to file a return or list is due to sickness or absence the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

"The Commissioner of Internal Revenue shall assess all taxes, other than stamp taxes, as to which returns or lists are so made by a collector or deputy collector. In case of any failure to make and file a return or list within the time prescribed by law or by the collector, the Commissioner of Internal Revenue shall add to the tax fifty per centum of its amount except that, when a return is voluntarily and without notice from the collector filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax one hundred per centum of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

SEC. 17. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes is made under the provisions of this title, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

SEC. 18. That any person, corporation, partnership, association, or insurance company, liable to pay the tax, to make a return or to supply information required under this title, who refuses or neglects to pay such tax, to make such return or to supply such information at the time or times herein specified in each year, shall be liable, except as otherwise specially provided in this title, to a penalty of not less than $20 nor more than $1,000. Any individual or any officer of any corporation, partnership, association, or insurance company, required by law to make, render, sign, or verify

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any return or to supply any information, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this title to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding $2,000 or be imprisoned not exceeding one year, or both, in the discretion of the court, with the costs of prosecution: *Provided*, That where any tax heretofore due and payable has been duly paid by the taxpayer, it shall not be re-collected from any withholding agent required to retain it at its source, nor shall any penalty be imposed or collected in such cases from the taxpayer, or such withholding agent whose duty it was to retain it, for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

SEC. 19. That the collector or deputy collector shall require every return to be verified by the oath of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. Such person may furnish sworn testimony to prove any relevant facts, and, if dissatisfied with the decision of the collector, may appeal to the Commissioner of Internal Revenue for his decision under such rules of procedure as may be prescribed by regulation.

SEC. 20. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this title to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

SEC. 21. That the preparation and publication of statistics reasonably available with respect to the operation of the income tax law and containing classifications of taxpayers and of income, the amounts allowed as deductions and exemptions, and any other facts deemed pertinent and valuable, shall be made annually by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

SEC. 22. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this title, are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed.

SEC. 23. That the provisions of this title shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general governments thereof, respectively: *Provided, further*, That the jurisdiction in this title conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this title shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico, and the Philippine Islands, or the political subdivisions thereof.

SEC. 24. That section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," is hereby repealed, except as herein otherwise provided, and except that it shall remain in force for the assessment and collection of all taxes which have accrued thereunder, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes, and except that the unexpended balance of any appropriation heretofore made and now available for the administration of such section or any provision thereof shall be available for the administration of this title or the corresponding provision thereof.

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SEC. 25. That income on which has been assessed the tax imposed by section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, shall not be considered as income within the meaning of this title: *Provided*, That this section shall not conflict with that portion of section ten, of this title, under which a taxpayer has fixed its own fiscal year.

SEC. 26. Every corporation, joint-stock company or association, or insurance company subject to the tax herein imposed, when required by the Commissioner of Internal Revenue, shall render a correct return, duly verified under oath, of its payments of dividends, whether made in cash or its equivalent or in stock, including the names and addresses of stockholders and the number of shares owned by each, and the tax years and the applicable amounts in which such dividends were earned, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

SEC. 27. That every person, corporation, partnership, or association, doing business as a broker on any exchange or board of trade or other similar place of business shall, when required by the Commissioner of Internal Revenue, render a correct return duly verified under oath, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, showing the names of customers for whom such person, corporation, partnership, or association has transacted any business, with such details as to the profits, losses, or other information which the commissioner may require, as to each of such customers, as will enable the Commissioner of Internal Revenue to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 28. That all persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, and employers, making payment to another person, corporation, partnership, association, or insurance company, of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections twenty-six and twenty-seven), of $800 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, are hereby authorized and required to render a true and accurate return to the Commissioner of Internal Revenue, under such rules and regulations and in such form and manner as may be prescribed by him, with the approval of the Secretary of the Treasury, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment: *Provided*, That such returns shall be required, regardless of amounts, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, and in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest from the bonds and dividends from the stock of foreign corporations by persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person, corporation, partnership, association, or insurance company paying the income.

The provisions of this section shall apply to the calendar year nineteen hundred and seventeen and each calendar year thereafter, but shall not apply to the payment of interest on obligations of the United States.

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SEC. 29. That in assessing income tax the net income embraced in the return shall also be credited with the amount of any excess profits tax imposed by Act of Congress and assessed for the same calendar or fiscal year upon the taxpayer, and, in the case of a member of a partnership, with his proportionate share of such excess profits tax imposed upon the partnership.

SEC. 30. That nothing in section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," or in this title, shall be construed as taxing the income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to foreign governments.

SEC. 31. (a) That the term "dividends" as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of the earnings or profits so distributed.

(b) Any distribution made to the shareholders or members of a corporation, joint-stock company, or association, or insurance company, in the year nineteen hundred and seventeen, or subsequent tax years, shall be deemed to have been made from the most recently accumulated undivided profits or surplus, and shall constitute a part of the annual income of the distributee for the year in which received, and shall be taxed to the distributee at the rates prescribed by law for the years in which such profits or surplus were accumulated by the corporation, joint-stock company, association, or insurance company, but nothing herein shall be construed as taxing any earnings or profits accrued prior to March first, nineteen hundred and thirteen, but such earnings or profits may be distributed in stock dividends or otherwise, exempt from the tax, after the distribution of earnings and profits accrued since March first, nineteen hundred and thirteen, has been made. This subdivision shall not apply to any distribution made prior to August sixth, nineteen hundred and seventeen, out of earnings or profits accrued prior to March first, nineteen hundred and thirteen.

SEC. 32. That premiums paid on life insurance policies covering the lives of officers, employees, or those financially interested in any trade or business conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing the net income of such individual, corporation, joint-stock company or association, or insurance company, or in computing the profits of such partnership for the purposes of subdivision (e) of section nine.

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TITLE IX.—ACT SEPTEMBER 8, 1916.

SEC. 900. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Effective September 9, 1916.

Effective date of Act as amended, October 4, 1917.

Act October 3, 1917:

SEC. 1302. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Approved, October 3, 1917.

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[Public, No. 50, 65th Congress—H. R. 4280.]

AN ACT To provide revenue to defray war expenses, and for other purposes.

TITLE I.—WAR INCOME TAX.

SECTION 1. That in addition to the normal tax imposed by subdivision (a) of section one of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like normal tax of two per centum upon the income of every individual, a citizen or resident of the United States, received in the calendar year nineteen hundred and seventeen and every calendar year thereafter.

SEC. 2. That in addition to the additional tax imposed by subdivision (b) of section one of such Act of September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like additional tax upon the income of every individual received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, as follows:

One per centum per annum upon the amount by which the total net income exceeds $5,000 and does not exceed $7,500;

Two per centum per annum upon the amount by which the total net income exceeds $7,500 and does not exceed $10,000;

Three per centum per annum upon the amount by which the total net income exceeds $10,000 and does not exceed $12,500;

Four per centum per annum upon the amount by which the total net income exceeds $12,500 and does not exceed $15,000;

Five per centum per annum upon the amount by which the total net income exceeds $15,000 and does not exceed $20,000;

Seven per centum per annum upon the amount by which the total net income exceeds $20,000 and does not exceed $40,000;

Ten per centum per annum upon the amount by which the total net income exceeds $40,000 and does not exceed $60,000;

Fourteen per centum per annum upon the amount by which the total net income exceeds $60,000 and does not exceed $80,000;

Eighteen per centum per annum upon the amount by which the total net income exceeds $80,000 and does not exceed $100,000;

Twenty-two per centum per annum upon the amount by which the total net income exceeds $100,000 and does not exceed $150,000;

Twenty-five per centum per annum upon the amount by which the total net income exceeds $150,000 and does not exceed $200,000;

Thirty per centum per annum upon the amount by which the total net income exceeds $200,000 and does not exceed $250,000;

Thirty-four per centum per annnum upon the amount by which the total net income exceeds $250,000 and does not exceed $300,000;

Thirty-seven per centum per annum upon the amount by which the total net income exceeds $300,000 and does not exceed $500,000;

Forty per centum per annum upon the amount by which the total net income exceeds $500,000 and does not exceed $750,000;

Forty-five per centum per annum upon the amount by which the total net income exceeds $750,000 and does not exceed $1,000,000;

Fifty per centum per annum upon the amount by which the total net income exceeds $1,000,000.

SEC. 3. That the taxes imposed by sections one and two of this Act shall be computed, levied, assessed, collected, and paid upon the same basis and in the same manner as the similar taxes imposed by section one of such Act of September eighth, nineteen hundred and sixteen, except that in the case of the tax imposed by section one of this Act (a) the exemptions of $3,000 and $4,000 provided in section seven of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be, respectively, $1,000 and $2,000, and (b) the returns required under

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subdivisions (b) and (c) of section eight of such Act as amended by this Act shall be required in the case of net incomes of $1,000 or over, in the case of unmarried persons, and $2,000 or over in the case of married persons, instead of $3,000 or over, as therein provided, and (c) the provisions of subdivision (c) of section nine of such Act, as amended by this Act, requiring the normal tax of individuals on income derived from interest to be deducted and withheld at the source of the income shall not apply to the new two per centum normal tax prescribed in section one of this Act until on and after January first, nineteen hundred and eighteen, and thereafter only one two per centum normal tax shall be deducted and withheld at the source under the provisions of such subdivision (c), and any further normal tax for which the recipient of such income is liable under this Act or such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be paid by such recipient.

SEC. 4. That in addition to the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, there shall be levied, assessed, collected, and paid a like tax of four per centum upon the income received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, by every corporation, joint-stock company or association, or insurance company, subject to the tax imposed by that subdivision of that section, except that if it has fixed its own fiscal year, the tax imposed by this section for the fiscal year ending during the calendar year nineteen hundred and seventeen shall be levied, assessed, collected, and paid only on that proportion of its income for such fiscal year which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year.

The tax imposed by this section shall be computed, levied, assessed, collected, and paid upon the same incomes and in the same manner as the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that for the purpose of the tax imposed by this section the income embraced in a return of a corporation, joint-stock company or association, or insurance company, shall be credited with the amount received as dividends upon the stock or from the net earnings of any other corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title.

SEC. 5. That the provisions of this title shall not extend to Porto Rico or the Philippine Islands, and the Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

TITLE X.—ADMINISTRATIVE PROVISIONS

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SEC. 1001. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person, corporation, partnership, or association liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

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SEC. 1003. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided, the tax shall be collected in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may prescribe. All administrative and penalty provisions of Title VIII of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner of Internal Revenue determines or prescribes shall be paid by stamp

SEC. 1004. That whoever fails to make any return required by this Act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this Act or fails to collect or truly to account for and pay over any such tax, shall

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be subject to a penalty of not more than $1,000, or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected, in any case in which the punishment is not otherwise specifically provided.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

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SEC. 1008. That in the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

SEC. 1009. That the Secretary of the Treasury, under rules and regulations prescribed by him, shall permit taxpayers liable to income and excess profits taxes to make payments in advance in installments or in whole of an amount not in excess of the estimated taxes which will be due from them, and upon determination of the taxes actually due any amount paid in excess shall be refunded as taxes erroneously collected: *Provided*, That when payment is made in installments at least one-fourth of such estimated tax shall be paid before the expiration of thirty days after the close of the taxable year, at least an additional one-fourth within two months after the close of the taxable year, at least an additional one-fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment: *Provided further*, That the Secretary of the Treasury, under rules and regulations prescribed by him, may allow credit against such taxes so paid in advance of an amount not exceeding three per centum per annum calculated upon the amount so paid from the date of such payment to the date now fixed by law for such payment; but no such credit shall be allowed on payments in excess of taxes determined to be due, nor on payments made after the expiration of four and one-half months after the close of the taxable year. All penalties provided by existing law for failure to pay tax when due are hereby made applicable to any failure to pay the tax at the time or times required in this section.

SEC. 1010. That under rules and regulations prescribed by the Secretary of the Treasury, collectors of internal revenue may receive, at par and accrued interest, certificates of indebtedness issued under section six of the Act entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes," approved April twenty-fourth, nineteen hundred and seventeen, and any subsequent Act or Acts, and uncertified checks in payment of income and excess-profits taxes, during such time and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

GENERAL PROVISIONS.

SEC. 1212. That any amount heretofore withheld by any withholding agent as required by Title I of such Act of September eighth, nineteen hundred and sixteen, on account of the tax imposed upon the income of any individual, a citizen or resident of the United States, for the calendar year nineteen hundred and seventeen, except in the cases covered by subdivision (c) of section nine of such Act, as amended by this Act, shall be released and paid over to such individual, and the entire tax upon the income of such individual for such year shall be assessed and collected in the manner prescribed by such Act as amended by this Act.

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SEC. 1300. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Effective date of act.

SEC. 1302. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Approved, October 3, 1917.

Effective October 4, 1917.

(T. D. 2550.)

War excess profits tax, October 3, 1917, effective October 4, 1917, except as otherwise provided.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 20, 1917.

To collectors of internal revenue and others concerned:

The appended extract from an act of Congress, approved October 3, 1917, is published for the information of internal-revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

[Public, No. 50, 65th Congress—H. R. 4280.]

AN ACT To provide revenue to defray war expenses, and for other purposes.

* * * * * * *

TITLE II.—WAR EXCESS PROFITS TAX.

SEC. 200. That when used in this title—

The term "corporation" includes joint-stock companies or associations and insurance companies;

The term "domestic" means created under the law of the United States, or of any State, Territory, or District thereof, and the term "foreign" means created under the law of any other possession of the United States or of any foreign country or government;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "taxable year" means the twelve months ending December thirty-first, excepting in the case of a corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year. The first taxable year shall be the year ending December thirty-first, nineteen hundred and seventeen, except that in the case of a corporation or partnership which has fixed its own fiscal year, it shall be the fiscal year ending during the calendar year nineteen hundred and seventeen. If a corporation or partnership, prior to March first, nineteen hundred and eighteen, makes a return covering its own fiscal year, and includes therein the income received during that part of the fiscal year falling within the calendar year nineteen hundred and sixteen, the tax for such taxable year shall be that proportion of the tax computed upon the net income during such full fiscal year which the time from January first, nineteen hundred and seventeen, to the end of such fiscal year bears to the full fiscal year; and

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The term "prewar period" means the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, or, if a corporation or partnership was not in existence or an individual was not engaged in a trade or business during the whole of such period, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business.

The terms "trade" and "business" include professions and occupations.

The term "net income" means in the case of a foreign corporation or partnership or a nonresident alien individual, the net income received from sources within the United States.

SEC. 201. That in addition to the taxes under existing law and under this act there shall be levied, assessed, collected, and paid for each taxable year upon the income of every corporation, partnership, or individual, a tax (hereinafter in this title referred to as the tax) equal to the following percentages of the net income:

Twenty per centum of the amount of the net income in excess of the deduction (determined as hereinafter provided) and not in excess of fifteen per centum of the invested capital for the taxable year;

Twenty-five per centum of the amount of the net income in excess of fifteen per centum and not in excess of twenty per centum of such capital;

Thirty-five per centum of the amount of the net income in excess of twenty per centum and not in excess of twenty-five per centum of such capital;

Forty-five per centum of the amount of the net income in excess of twenty-five per centum and not in excess of thirty-three per centum of such capital; and

Sixty per centum of the amount of the net income in excess of thirty-three per centum of such capital.

For the purpose of this title every corporation or partnership not exempt under the provisions of this section shall be deemed to be engaged in business, and all the trades and businesses in which it is engaged shall be treated as a single trade or business, and all its income from whatever source derived shall be deemed to be received from such trade or business.

This title shall apply to all trades or businesses of whatever description, whether continuously carried on or not, except—

(a) In the case of officers and employees under the United States, or any State, Territory, or the District of Columbia, or any local subdivision thereof, the compensation or fees received by them as such officers or employees:

(b) Corporations exempt from tax under the provisions of section eleven of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, and partnerships and individuals carrying on or doing the same business, or coming within the same description; and

(c) Incomes derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan.

SEC. 202. That the tax shall not be imposed in the case of the trade or business of a foreign corporation or partnership or a nonresident alien individual, the net income of which trade or business during the taxable year is less than $3,000.

SEC. 203. That for the purposes of this title the deduction shall be as follows, except as otherwise in this title provided—

(a) In the case of a domestic corporation, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) $3,000;

(b) In the case of a domestic partnership or of a citizen or resident of the United States, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade

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or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) $6,000;

(c) In the case of a foreign corporation or partnership or of a nonresident alien individual, an amount ascertained in the same manner as provided in subdivisions (a) and (b) without any exemption of $3,000 or $6,000;

(d) If the Secretary of the Treasury is unable satisfactorily to determine the average amount of the annual net income of the trade or business during the prewar period, the deduction shall be determined in the same manner as provided in section two hundred and five.

SEC. 204. That if a corporation or partnership was not in existence, or an individual was not engaged in the trade or business, during the whole of any one calendar year during the prewar period, the deduction shall be an amount equal to eight per centum of the invested capital for the taxable year, plus in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

A trade or business carried on by a corporation, partnership, or individual, although formally organized or reorganized on or after January second, nineteen hundred and thirteen, which is substantially a continuation of a trade or business carried on prior to that date, shall, for the purposes of this title, be deemed to have been in existence prior to that date, and the net income and invested capital of its predecessor prior to that date shall be deemed to have been its net income and invested capital.

SEC. 205. (a) That if the Secretary of the Treasury, upon complaint finds either (1) that during the prewar period a domestic corporation or partnership, or a citizen or resident of the United States, had no net income from the trade or business, or (2) that during the prewar period the percentage, which the net income was of the invested capital, was low as compared with the percentage, which the net income during such period of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, was of their invested capital, then the deduction shall be the sum of (1) an amount equal to the same percentage of its invested capital for the taxable year which the average deduction (determined in the same manner as provided in section two hundred and three, without including the $3,000 or $6,000 therein referred to) for such year of representative corporations, partnerships, or individuals, engaged in a like of similar trade or business, is of their average invested capital for such year plus (2) in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

The percentage which the net income was of the invested capital in each trade or business shall be determined by the Commissioner of Internal Revenue, in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the percentage determined by the calendar year ending during such fiscal year shall be used.

(b) The tax shall be assessed upon the basis of the deduction determined as provided in section two hundred and three, but the taxpayer claiming the benefit of this section may at the time of making the return file a claim for abatement of the amount by which the tax so assessed exceeds a tax computed upon the basis of the deduction determined as provided in this section. In such event, collection of the part of the tax covered by such claim for abatement shall not be made until the claim is decided, but if in the judgment of the Commissioner of Internal Revenue, the interests of the United States would be jeopardized thereby he may require the claimant to give a bond in such amount and with such sureties as the commissioner may think wise to safeguard such interests, conditioned for the payment of any tax found to be due, with the interest thereon, and if such bond, satisfactory to the commissioner, is not given within such time as he prescribes, the full amount of tax

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assessed shall be collected and the amount overpaid, if any, shall upon final decision of the application be refunded as a tax erroneously or illegally collected.

SEC. 206. That for the purposes of this title the net income of a corporation shall be ascertained and returned (a) for the calendar years nineteen hundred and eleven and nineteen hundred and twelve upon the same basis and in the same manner as provided in section thirty-eight of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, except that income taxes paid by it within the year imposed by the authority of the United States shall be included; (b) for the calendar year nineteen hundred and thirteen upon the same basis and in the same manner as provided in section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, except that income taxes paid by it within the year imposed by the authority of the United States shall be included, and except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by section II of such Act of October third, nineteen hundred and thirteen, shall be deducted; and (c) for the taxable year upon the same basis and in the same manner as provided in Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, as amended by this Act, except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by Title I of such Act of September eighth, nineteen hundred and sixteen, shall be deducted.

The net income of a partnership or individual shall be ascertained and returned for the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, and for the taxable year, upon the same basis and in the same manner as provided in Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that the credit allowed by subdivision (b) of section five of such Act shall be deducted. There shall be allowed (a) in the case of a domestic partnership the same deductions as allowed to individuals in subdivision (a) of section five of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act; and (b) in the case of a foreign partnership the same deductions as allowed to individuals in subdivision (a) of section six of such Act as amended by this Act.

SEC. 207. That as used in this title, the term "invested capital" for any year means the average invested capital for the year, as defined and limited in this title, averaged monthly.

As used in this title "invested capital" does not include stocks, bonds (other than obligations of the United States), or other assets, the income from which is not subject to the tax imposed by this title nor money or other property borrowed, and means subject to the above limitations:

(a) In the case of a corporation or partnership: (1) Actual cash paid in, (2) the actual cash value of tangible property paid in other than cash, for stock or shares in such corporation or partnership, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen, but in no case to exceed the par value of the original stock or shares specifically issued therefor), and (3) paid in or earned surplus and undivided profits used or employed in the business, exclusive of undivided profits earned during the taxable year: *Provided*, That (a) the actual cash value of patents and copyrights paid in for stock or shares in such corporation or partnership, at the time of such payment, shall be included as invested capital, but not to exceed the par value of such stock or shares

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at the time of such payment, and (b) the good will, trade-marks, trade brands, the franchise of a corporation or partnership, or other intangible property, shall be included as invested capital if the corporation or partnership made payment bona fide therefor specifically as such in cash or tangible property, the value of such good will, trade-mark, trade brand, franchise, or intangible property, not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment; but good will, trade-marks, trade brands, franchise of a corporation or partnership, or other intangible property, bona fide purchased, prior to March third, nineteen hundred and seventeen, for and with interest or shares in a partnership or for and with shares in the capital stock of a corporation (issued prior to March third, nineteen hundred and seventeen), in an amount not to exceed, on March third, nineteen hundred and seventeen, twenty per centum of the total interests or shares in the partnership or of the total shares of the capital stock of the corporation, shall be included in invested capital at a value not to exceed the actual cash value at the time of such purchase, and in case of issue of stock therefor not to exceed the par value of such stock;

(b) In the case of an individual, (1) actual cash paid into the trade or business, and (2) the actual cash value of tangible property paid into the trade or business, other than cash, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen), and (3) the actual cash value of patents, copyrights, good will, trade-marks, trade brands, franchises, or other intangible property, paid into the trade or business, at the time of such payment, if payment was made therefor specifically as such in cash or tangible property, not to exceed the actual cash or actual cash value of the tangible property bona fide paid therefor at the time of such payment.

In the case of a foreign corporation or partnership or of a nonresident alien individual the term "invested capital" means that proportion of the entire invested capital, as defined and limited in this title, which the net income from sources within the United States bears to the entire net income.

SEC. 208. That in case of the reorganization, consolidation or change of ownership of a trade or business after March third, nineteen hundred and seventeen, if an interest or control in such trade or business of fifty per centum or more remains in control of the same persons, corporations, associations, partnerships, or any of them, then in ascertaining the invested capital of the trade or business no asset transferred or received from the prior trade or business shall be allowed a greater value than would have been allowed under this title in computing the invested capital of such prior trade or business if such asset had not been so transferred or received, unless such asset was paid for specifically as such, in cash or tangible property, and then not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment.

SEC. 209. That in the case of a trade or business having no invested capital or not more than a nominal capital there shall be levied, assessed, collected and paid, in addition to the taxes under existing law and under this Act, in lieu of the tax imposed by section two hundred and one, a tax equivalent to eight per centum of the net income of such trade or business in excess of the following deductions: In the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000; in the case of all other trades or business, no deduction.

SEC. 210. That if the Secretary of the Treasury is unable in any case satisfactorily to determine the invested capital, the amount of the deduction shall be the sum of (1) an amount equal to the same proportion of the net income of the trade or business received during the taxable year as the proportion which the average deduction determined in the same manner as provided in section two hundred and three,

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without including the $3,000 or $6,000 therein referred to) for the same calendar year of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, bears to the total net income of the trade or business received by such corporations, partnerships, and individuals, plus (2) in the case of a domestic corporation $3,000, and in the case of a domestic partnership or a citizen or resident of the United States $6,000.

For the purpose of this section the proportion between the deduction and the net income in each trade or business shall be determined by the Commissioner of Internal Revenue in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the proportion determined for the calendar year ending during such fiscal year shall be used.

SEC. 211. That every foreign partnership having a net income of $3,000 or more for the taxable year, and every domestic partnership having a net income of $6,000 or more for the taxable year, shall render a correct return of the income of the trade or business for the taxable year, setting forth specifically the gross income for such year, and the deductions allowed in this title. Such returns shall be rendered at the same time and in the same manner as is prescribed for income-tax returns under Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act.

SEC. 212. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed, and not inconsistent with the provisions of this title are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed, and all provisions of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, relating to returns and payment of the tax therein imposed, including penalties, are hereby made applicable to the tax imposed by this title.

SEC. 213. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title, and may require any corporation, partnership, or individual, subject to the provisions of this title, to furnish him with such facts, data, and information as in his judgment are necessary to collect the tax imposed by this title.

SEC. 214. That Title II (sections two hundred to two hundred and seven, inclusive) of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy, and the extensions of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, is hereby repealed.

Any amount heretofore or hereafter paid on account of the tax imposed by such Title II, shall be credited toward the payment of the tax imposed by this title, and if the amount so paid exceeds the amount of such tax the excess shall be refunded as a tax erroneously or illegally collected.

Subdivision (1) of section three hundred and one of such Act of September eighth, nineteen hundred and sixteen, is hereby amended so that the rate of tax for the taxable year nineteen hundred and seventeen shall be ten per centum instead of twelve and one-half per centum, as therein provided.

Subdivision (2) of such section is hereby amended to read as follows:

"(2) This section shall cease to be of effect on and after January first, nineteen hundred and eighteen."

TITLE X.—ADMINISTRATIVE PROVISIONS.

* * * * * * *

SEC. 1001. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended

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to and made a part of this Act, and every person, corporation, partnership, or association liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

* * * * * * *

SEC. 1003. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided, the tax shall be collected in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may prescribe. All administrative and penalty provisions of Title VIII of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner of Internal Revenue determines or prescribes shall be paid by stamp.

SEC. 1004. That whoever fails to make any return required by this Act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this Act or fails to collect or truly to account for and pay over any such tax, shall be subject to a penalty of not more than $1,000, or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected, in any case in which the punishment is not otherwise specifically provided.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

* * * * * * *

SEC. 1008. That in the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

SEC. 1009. That the Secretary of the Treasury, under rules and regulations prescribed by him, shall permit taxpayers liable to income and excess profits taxes to make payments in advance in installments or in whole of an amount not in excess of the estimated taxes which will be due from them, and upon determination of the taxes actually due any amount paid in excess shall be refunded as taxes erroneously collected: *Provided*, That when payment is made in installments at least one-fourth of such estimated tax shall be paid before the expiration of thirty days after the close of the taxable year, at least an additional one-fourth within two months after the close of the taxable year, at least an additional one-fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment: *Provided further*, That the Secretary of the Treasury, under rules and regulations prescribed by him, may allow credit against such taxes so paid in advance of an amount not exceeding three per centum per annum calculated upon the amount so paid from the date of such payment to the date now fixed by law for such payment; but no such credit shall be allowed on payments in excess of taxes determined to be due, nor on payments made after the expiration of four and one-half months after the close of the taxable year. All penalties provided by existing law for failure to pay tax when due are hereby made applicable to any failure to pay the tax at the time or times required in this section.

SEC. 1010. That under rules and regulations prescribed by the Secretary of the Treasury, collectors of internal revenue may receive, at par and accrued interest, certificates of indebtedness issued under section six of the Act entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes," approved April twenty-fourth, nineteen hundred and seventeen, and any subsequent Act or Acts, and uncertified checks in pay-

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ment of income and excess-profits taxes, during such time and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

GENERAL PROVISIONS.

SEC. 1212. That any amount heretofore withheld by any withholding agent as required by Title I of such Act of September eighth, nineteen hundred and sixteen, on account of the tax imposed upon the income of any individual, a citizen or resident of the United States, for the calendar year nineteen hundred and seventeen, except in the cases covered by subdivision (c) of section nine of such Act, as amended by this Act, shall be released and paid over to such individual, and the entire tax upon the income of such individual for such year shall be assessed and collected in the manner prescribed by such Act as amended by this Act.

* * * * * * *

SEC. 1300. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

EFFECTIVE DATE OF ACT.

SEC. 1302. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Approved, October 3, 1917.

Effective October 4, 1917.

(T. D. 2551.)

Exemption of tax on Government bills of lading and transportation requests.

Instructions relative to the exemption provided by section 502 of the act of October 3, 1917, from the tax imposed under section 500 of said act upon any payments for services rendered to the United States or any State, Territory, or the District of Columbia.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1917.

To collectors of internal revenue and others concerned:

Section 502 of the act of October 3, 1917, provides—

That no tax shall be imposed under section five hundred upon any payment received for services rendered to the United States, or any State, Territory, or the District of Columbia. The right to exemption under this section shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

All shipments either by freight or express, the charges on which are paid by the United States, will be free of the tax imposed by

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section 500. Shipments of Government property by Government officers will be made on Government bills of lading.

Shipments of property belonging to a State Territory, or the District of Columbia, the charges on which are paid by the State, Territory, or the District of Columbia, will be made free of the tax imposed by section 500.

It will be necessary in all cases of shipments made by freight or express, where Government bills of lading are not used, for the officer or employee of the United States, State, Territory, or District of Columbia to satisfy the agent to whom the charges are paid that the service rendered or to be rendered is for the United States, State, Territory, or District of Columbia, as the case may be, and the agent collecting the charges should note on the records of his office the name of the consignor and consignee, and indicate thereon that such shipment covered service rendered the United States, State, Territory, or District of Columbia, as the case may be, and was not subject to the tax.

Shipments by freight or express of property received by the United States, or any State, Territory, or the District of Columbia are free of the tax imposed by section 500, provided the United States, or any State, Territory, or the District of Columbia is liable for and pays the transportation charges on such shipments.

When officers or employees of the United States, or of any State, Territory, or the District of Columbia, travel on transportation requests, the transportation requests will be sufficient evidence that the tickets obtained thereon either for transportation by rail or water, or for seats, berths, or staterooms in parlor cars, sleeping cars, or on vessels were received from the agent without the payment of the tax imposed by section 500.

The agent of the transportation company who issues the ticket should note on the records of his office the number of the Government transportation request. Where travel is made by officers or employees of a State, Territory, or the District of Columbia upon transportation requests a notation should be made on the records of the agent issuing the ticket so that a verification can be made as in case of Government transportation requests.

When an officer or employee of the United States, or of a State, Territory, or the District of Columbia, is traveling on official business and pays cash for his transportation or presents a mileage book purchased prior to November 1, 1917, he will give to the agent from whom tickets are obtained for transportation by rail or water, or for seats, berths, or staterooms in parlor cars, sleeping cars, or on vessels, or to the conductor or agent to whom he presents the mileage book, his certificate stating that the service to be rendered from the place named to the place named is on account of official business

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and not for private purposes. Transportation agents should not accept such certificates unless the officer or employee presenting same shows satisfactory credentials.

A form of certificate will be furnished by the Treasury Department for the officers and employees of the United States. If officers and employees of the United States are not supplied with these certificates by November 1, 1917, a certificate in the following form should be given transportation agents when the travel is on official business and cash fare is paid or mileage book is used which was purchased prior to November 1, 1917:

.....
(Name of place.)

....., 191 .

I certify that the ticket (or tickets) No. ....., Form No. ....., for ..... (state the purpose for which purchased, whether for transportation by rail or water, or for seat, berth, or stateroom in parlor car, sleeping car, or on vessel, or for charges for excess baggage), from ..... to ....., via ....., is on account of official business and not for private purposes, and is exempt from the tax imposed by the act of October 3, 1917.

.....
(Signature of officer or employee purchasing ticket.)

.....
(Title.)

.....
(Department or establishment.)

In case a ticket, obtained either on a transportation request or by purchase and not partially used prior to November 1, 1917, is presented for travel on official business on or after November 1, 1917 a certificate made in the form indicated above should be given to the conductor to whom such ticket is first presented.

All telegraph, telephone, or radio messages of officers and employees of the United States, or of a State, Territory, or the District of Columbia, on official business are exempt from tax and should not be reported in the monthly return of the telegraph, telephone, or radio company. In case of a telegraph or radio message, the officer or employee sending such message should certify thereon that it is on account of official business and not for private purposes.

This certificate may be in the following form:

I certify that this message is on official business and not for private purposes.

.....
..... (Title.)

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2552.)

Taxes on cigarette papers and tubes.

Regulations concerning payment of tax on cigarette papers and tubes under section 404, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1917.

To collectors of internal revenue and others concerned:

Section 404 of the act of October 3, 1917, provides—

That there shall be levied, assessed, and collected upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and intended for use by the smoker in making cigarettes, the following taxes: On each package, book, or set containing more than twenty-five but not more than fifty papers, one-half of 1 cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, 1 cent for each one hundred papers or fractional part thereof; and upon tubes, 2 cents for each one hundred tubes or fractional part thereof.

In section 402 it is provided that section 404 "shall take effect thirty days after the passage of this act."

Said act further provides:

SEC. 1003. That in all cases where the method of collecting the tax imposed by this act is not specifically provided, the tax shall be collected in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. All administrative and penalty provisions of Title VIII of this act, in so far as applicable, shall apply to the collection of any tax which the Commissioner of Internal Revenue determines or prescribes shall be paid by stamp.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

Under authority conferred by the foregoing sections of the act the following regulations are issued concerning the payment of internal-revenue taxes imposed on cigarette papers and tubes.

TAX AND EXEMPTIONS.

(1) The taxes imposed by section 404 of the act approved October 3, 1917, upon cigarette paper made up into packages, books, sets, or tubes intended for use by the smoker in making cigarettes, which become effective on November 2, 1917, accrue upon removal of such packages, books, sets, or tubes from the place where they are made in the United States, or, if they are imported, upon withdrawal from customhouse for consumption or use. These taxes will be assessed and collected as hereinafter provided.

The rates of tax are as follows: Cigarette papers made up into packages, books, or sets containing more than 25 but not more than

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50 papers per package, book, or set, ½ cent; cigarette papers made up into packages, books, or sets containing more than 50 but not more than 100 papers per package, book, or set, 1 cent; cigarette papers made up into packages, books, or sets containing more than 100, per 100 or fractional part, 1 cent; cigarette tubes, per 100 or fractional part thereof, 2 cents.

Cigarette papers made up into packages, books, or sets containing not more than 25 papers, and also cigarette tubes delivered to a duly registered manufacturer of cigarettes under conditions hereinafter stated, are exempt from tax.

No provision is made by law for the exportation without the payment of tax of cigarette papers in packages, books, or sets, or of cigarette tubes.

IMPORTED CIGARETTE PAPERS AND TUBES.

(2) When cigarette paper made up into packages, books, or sets, or cigarette tubes are imported into the United States, the customs consumption entry or withdrawal for consumption entry shall be prepared in triplicate and shall show in detail (*a*) number of packages, etc., containing not more than 25 papers each; (*b*) number of packages, etc., containing more than 25 but not more than 50 papers each; (*c*) number of packages, etc., containing more than 50 but not more than 100 papers each; (*d*) number of packages, etc., containing —— papers each; (*e*) number of packages, etc., containing —— papers each; (*f*) number of cigarette tubes intended for use by the smoker in making cigarettes (taxable); (*g*) number of cigarette tubes (exempt) to be delivered to a duly registered manufacturer of cigarettes, giving name, address, factory number, district, and State of such manufacturer.

Two copies of such customs entries will be filed with the collector of internal revenue. The internal-revenue tax on the cigarette papers in packages, books, or sets or cigarette tubes shown by such entries to be due shall be paid to the collector of internal revenue at the time the entries are filed with him. Receipts on Form 1 shall be issued until a form for the payment of such taxes can be printed and furnished to collectors. On one copy of the customs entry the collector of internal revenue will indorse a certificate under his official seal, setting forth that the internal-revenue tax on the articles described therein has been paid, naming the amount of such payment, and he will then deliver such copy, so certified, to the importer, to be filed by him with the collector of customs. The release of the articles described in the customs entry will not be made by the customs officer, in whose custody the same are, without the certificate of the collector of internal revenue, as prescribed. Report in duplicate will

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also be made on each importation by the collector of customs to the collector of internal revenue of the quantity imported, as ascertained on final examination. Upon such report payment of additional tax due will be required immediately. If payment in any case is in excess of the tax as ascertained from such report, claim for refund of the excess may be filed.

The collector of internal revenue will forward at the close of each month the copy of the customs entry retained by him and one copy of the report of the collector of customs on each importation to the Commissioner of Internal Revenue with Form 58, on which the payment shall be listed currently as received.

DOMESTIC MANUFACTURES.

(3) Every person, corporation, partnership, or association making up cigarette paper into packages, books, sets, or tubes in the United States will be required to keep a book and enter therein each day the number of packages, books, or sets and the number of papers contained therein and the number of tubes removed for consumption or use under the several heads, as follows: (*a*) Containing not more than 25 papers each; (*b*) containing more than 25 but not more than 50 papers each; (*c*) containing more than 50 but not more than 100 papers each; (*d*) containing —— papers each; (*e*) containing —— papers each; (*f*) number of packages of tubes per 100 or fractional part thereof; (*g*) number of cigarette tubes exempt from tax.

A daily record will also be required to be kept of the number of cigarette tubes sold and delivered tax free to duly registered manufacturers of cigarettes, giving the name, address, factory number, the number of the district, and the State of each, and also the number of packages of cigarette tubes containing 100 tubes or fractional part thereof, and the number of tubes intended for use by the smoker in making cigarettes removed subject to tax.

At the close of each month return will be required to be made from the book of the maker of cigarette papers into packages, books, sets, or tubes which will indicate the amount of tax required to be paid; and such return, with abstracts of the record of the sales and deliveries of cigarette tubes delivered to manufacturers of cigarettes and removed for use by the smoker in making cigarettes, will be sworn to and filed with the collector of internal revenue for the district on or before the 10th day of the succeeding month. Payment of the tax shown to be due will be required at the time of filing return.

Forms of books, records, returns, and abstracts above referred to will be furnished collectors for distribution to and use by taxpayers

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under this section of the act at the earliest practicable date. Until printed blanks can be supplied improvised books, records, and returns shall be used.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2553.)

War excise tax.

[Superseded by T. D. 2573.]

(T. D. 2554.)

Liberty loan bonds as security for taxes.

Collectors are authorized to accept for payment of floor taxes, in lieu of Liberty bonds, a certificate of a bank or trust company, a member of the Federal Reserve System, to the effect that the taxpayer has deposited with the bank or trust company certificates of indebtedness in full payment of Liberty bond subscription.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1917.

To collectors of internal revenue:

Reference is made to T. D. 2537, in which collectors were advised that they might accept in lieu of surety bonds as security for the payment of floor taxes covered by section 1002 of the act of Congress approved October 3, 1917, Liberty loan bonds of the United States equivalent to the actual amount of the taxes due.

Section 1002 of the act above referred to provides in part as follows:

> Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

The 4 per cent Liberty loan bonds will not be available for deposit on November 2, 1917. In lieu thereof collectors are hereby authorized to accept for the payment of floor taxes a certificate of a bank or trust company, a member of the Federal Reserve System, the sufficiency and solvency of which are satisfactory to the collector, to the effect that the taxpayer has deposited with the bank or trust company cash or Treasury certificates of indebtedness in full payment of Liberty loan bond subscriptions in the name of the "Commissioner of Internal Revenue in trust for ———," or in the event the bond

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transaction is not consummated the taxes will be paid to the collector in cash or corporate surety bond filed.

The form of certificate shall be as follows:

This is to certify that on the —— day of ———, A. D. 1917, ——— company, of ———, deposited with the ——— Bank of ———, ——— dollars (or Treasury certificates of indebtedness) in full payment of subscription of ——— dollars United States Liberty loan bonds of the second series in the name of the Commissioner of Internal Revenue in trust for ———, with the condition that if the full amount of bonds subscribed for is not allotted to the subscriber the difference will be held for payment to the collector of internal revenue for the —— collection district of ——— in satisfaction of taxes due, unless the taxpayer pays the taxes in cash or files satisfactory corporate surety bond.

——— ———.

In due course the bonds, if allotted to the subscriber, will be issued to the Commissioner of Internal Revenue in trust for the subscriber, and upon the payment of the taxes secured thereby, either registered or coupon bonds will be issued according to the instructions of the subscriber and delivered at the place designated by him.

Certificates filed with the collector as security should be at once forwarded to the Commissioner of Internal Revenue.

All Liberty loan bonds deposited as security should be immediately forwarded to the Commissioner of Internal Revenue by registered mail for safe-keeping, except in those cases in which the collector's office is located in the same city as a Federal reserve bank, in which cases coupon bonds received should be deposited with the Federal reserve bank, which will issue its receipt in triplicate for the bonds, with the condition that the bonds are to be surrendered to the subscriber upon the order of the Commissioner of Internal Revenue. One of the receipts received should be forwarded to the subscriber and another to the Commissioner of Internal Revenue. If the bonds received for deposit are registered they should be assigned to the Commissioner of Internal Revenue and in every such case forwarded to him. In forwarding registered bonds by registered mail it will not be necessary to have the package containing the same insured. In forwarding coupon bonds the package must be insured, and a letter written to the Secretary of the Treasury, Division of Public Moneys, advising of the shipment and specifying that it consists of "Liberty loan bonds." If insurance blanks are used in accordance with article 187 (a) of regulations No. 2, revised, it should be clearly stated thereon that the shipment consists of "Liberty loan bonds."

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2555.)

Shipment of tax-paid wines in tank cars—Amendment to T. D. 2474

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1917.

To collectors of internal revenue and others concerned:

T. D. 2474, amending article 15 of regulations 28, supplement No. 2, relating to the shipment of tax-paid wines in tank cars, is hereby further amended as follows:

In case of shipment of tax-paid wines in tank cars, the shipper will be required to make bills of lading in triplicate. Two copies of these bills of lading will be at once filed with the collector of the district from which such wines are shipped, with uncanceled stamps of the required denominations affixed to one of these copies. The bill of lading to which the uncanceled stamps are attached will then be checked with the wine maker's or dealer's monthly statement (Form 701 or 702), and, together with the uncanceled stamps, will be forwarded by the collector, *by registered mail*, to the Commissioner of Internal Revenue at the close of each month.

Immediately upon receipt of these two bills of lading and uncanceled stamps the collector will mail one copy of the bill of lading to the collector of the district to which the tank car or tank cars are consigned, noting thereon that the appropriate stamps have been received in his office (stating the amount and the date received). The third copy of the bill of lading will be sent by the shipper to the consignee, after noting thereon that appropriate stamps were forwarded to the collector's office (giving the amount of stamps and date forwarded).

The collector of the district to which such tank cars are consigned will see that they are not released to the consignee until he has received a copy of the bill of lading, duly certified by the collector of the district from which shipped, stating that the proper stamps have been received in his office.

For such shipments the label to be affixed to the car will, in addition to the prescribed marks, contain the words "tax paid."

All shipments of wine in tank cars, whether in bond or tax paid, will be reported as separate items on Form 701 or 702, as the case may be.

Wines shipped to other than bonded premises, on which the tax has not been paid by stamp, as provided for above, will be seized and the shipper thereof will be prosecuted under the provisions of paragraph (*f*) of section 402 of the act of September 8, 1916.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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(T. D. 2556.)

Returns and inventories of floor stocks of tobacco, snuff, etc.

All tax-paid manufactured tobacco, snuff, cigars, and cigarettes in excess of certain quantities held for sale on October 4, 1917, required to be inventoried and returned for assessment of additional tax. Dealers and others required to pay the tax must make return on Form 416 C in duplicate under oath on or before November 2, 1917. Payment of tax shown to be due is required at time of filing return, but may, upon filing of a bond, be extended to a date not exceeding seven months from the passage of the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 16, 1917.

To collectors of internal revenue and others concerned:

Section 403 of the act approved October 3, 1917, provides—

That there shall also be levied and collected, upon all manufactured tobacco and snuff in excess of one hundred pounds or upon cigars or cigarettes in excess of one thousand, which were manufactured or imported, and removed from factory or custom-house prior to the passage of this act, bearing tax-paid stamps affixed to such articles for the payment of the taxes thereon, and which are, on the day after this act is passed, held and intended for sale by any person, corporation, partnership, or association * * * an additional tax equal to one-half the tax imposed by such sections (400 and 401) upon such articles.

The rates of additional tax (equal to one-half the tax imposed by said act) upon tax-paid manufactured tobacco, snuff, cigars, and cigarettes held for sale in excess of the amounts stated are as follows:

	Per 1,000.
Class B. Cigars weighing more than 3 pounds per thousand manufactured or imported to retail at 4 cents or more each and not more than 7 cents each	$0.50
Class C. Cigars weighing more than 3 pounds per thousand manufactured or imported to retail at more than 7 cents each and not more than 15 cents each	1.50
Class D Cigars weighing more than 3 pounds per thousand manufactured or imported to retail at more than 15 cents each and not more than 20 cents each	2.50
Class E. Cigars weighing more than 3 pounds per thousand manufactured or imported to retail at more than 20 cents each	3.50
Cigars weighing not more than 3 pounds per thousand	.12½
Cigarettes weighing not more than 3 pounds per thousand	.40
Cigarettes weighing more than 3 pounds per thousand	.60
Tobacco and snuff	.02½

No additional tax on cigars weighing more than 3 pounds per thousand manufactured or imported to retail at less than 4 cents each.

Instructions in T. Mim. 1600, dated August 24, 1917, provided that copies of instructions and temporary inventory forms prepared by collectors according to drafts which were forwarded them should, immediately upon receipt of telegraphic advice from the department as to rates, etc., on passage of the act, be completed and

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mailed by them to dealers in tobacco and others subject to such additional tax. The temporary inventory forms are to be used as guides only by dealers in inventorying their stocks and are to be held until printed blanks (Form 416C) are forwarded them, on which formal return and inventory must be made to the collector of the district.

All tax-paid manufactured tobacco, snuff, cigars, and cigarettes held and intended for sale on the morning of October 4, 1917, at each place of business, each warehouse, distributing depot, or storeroom, not connected with any place of business, and each manufacturer's shipping room on unbonded space are required to be inventoried. The contents of broken packages are also required to be inventoried. Goods in transit on the date specified must be included in the inventory of the consignee if the title thereto has passed to him, and in the inventory of the consignor if shipped under such conditions that the title does not pass until delivery.

Section 1002 of the act aforesaid provides—

> That where additional taxes are imposed by this act upon articles or commodities, upon which the tax imposed by existing law has been paid, the person, corporation, partnership, or association required by this act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

In pursuance of said section, dealers in tobacco and others subject to additional tax on their stocks of tax-paid tobacco, snuff, cigars, and cigarettes must make returns on Form 416C, hereby prescribed, with the approval of the Secretary of the Treasury. These return forms, which will be printed in duplicate with receipt form attached to original copy, are in the hands of the Public Printer, and as soon as the supply is received they will be forwarded to collectors for immediate distribution to taxpayers.

Form 416C of inventory and return must be made in duplicate and sworn to before the collector or deputy collector or some other officer duly authorized to administer oaths. The original copy of Form 416C of return and inventory, together with the receipt form attached, for each place of business, except when other stores or warehouses, etc., are also operated by the same person, firm, partnership, or association, is required to be forwarded immediately to the collector of internal revenue for the district, accompanied by remittance in the form of post-office money order, draft, or certified check, made payable to the collector *on or before November 2, 1917*. Where two or more stores are operated, or warehouses, distributing depots, or storerooms are maintained by the same dealer, and in the case of two

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or more shipping rooms on unbonded space at factories, the original inventory and return (completed except as to columns 3, 4, 5, and 6 and affidavit) for each store, etc., properly filled in, should be forwarded immediately to the principal office or place of business of the owner. In such cases, original and duplicate return shall be made by the principal office or place of business in column 2, of which returns the aggregate of the totals of the inventories of each store, etc., shall be filled in, and said returns, with the several inventories attached, shall be sworn to and filed with the collector of internal revenue for the district in which the principal office or place of business is situated. The duplicate copy of Form 416C of inventory and return is to be held at each store, warehouse, etc., for verification by a deputy collector or other internal-revenue officer, who will visit such place of business for that purpose and by whom same will be taken up and delivered to the collector of his district. If the original inventory of said place of business, warehouse, etc., has been included in the return filed by the principal office or place of business, the duplicate inventory on Form 416C must bear statement at the head thereof giving name and address of the principal office or place of business

Where an internal-revenue officer has checked the stock and verified the inventory of a dealer in tobacco before Form 416C is prepared, both original and duplicate returns shall be forwarded with remittance to the collector.

Payment of the tax shown to be due must be made to the collector of internal revenue for the district at the time of filing original Form 416C of return and inventory with him, but payment may be extended to a date not exceeding seven months from October 3, 1917, upon filing with the collector a bond for payment in duplicate with an approved surety company in a penal sum of not less than double the tax due and in no case less than $1,000.

Section 1004 of the act provides—

That whoever fails to make any return required by this act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this act or fails to collect or truly to account for and pay over any such tax, shall be subject to a penalty of not more than $1,000, or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected, in any case in which the punishment is not otherwise specifically provided.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2557.)

Bond for extending payment of certain taxes.

Form of bond with personal surety prescribed for extending payment to a date not exceeding seven months from October 3, 1917, of additional taxes imposed by act of October 3, 1917, upon articles or commodities previously tax paid and other floor taxes imposed by the same act, such bonds to be executed in a penal sum of not less than the tax due, and in no case less than $1,000.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1917.

To collectors of internal revenue:

By section 1002 of the act of Congress approved October 3, 1917, it is prescribed that payment of floor taxes shown to be due will be extended to a date not exceeding seven months from October 3, 1917, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

If payment of floor taxes due can not be made within the time prescribed by law and surety company bonds can not be furnished, collectors are hereby authorized to accept settlement on the following conditions: A bond with adequate personal surety supported by other satisfactory security, conditioned in a penal sum not less than the amount of the tax due and with the provision that not less than 20 per cent of the total amount of tax shall be paid on or before November 2, 1917, and not less than 20 per cent on or before the following dates: December 3, 1917; January 2, 1918; February 2, 1918; March 2, 1918.

Collectors must approve all bonds and must exercise great caution in accepting security herein authorized before forwarding same to this office.

The form of the bond shall be as follows:

Treasury Department.
U. S. Internal Revenue.
Form 723, Revised.

(To be executed in duplicate in a penal sum of not less than the tax due and in no case less than $1,000.)

BOND.

(For additional taxes imposed by act of Congress approved October 3, 1917, on certain articles held by dealers and jobbers.)

Know all men by these presents, that we, ——— ———, of ———, as principal, and ——— ———, of ———, as suret—, are held and firmly bound unto the United States of America in the sum of ——— thousand dollars, lawful money of the United States, for the payment whereof to the United States we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this —— day of ———, 191–.

Whereas the above bounden principal is indebted to the United States in the sum of —— dollars, being the ascertained amount of internal-revenue taxes due and

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payable under an act of Congress approved October 3, 1917, on certain articles owned or held by the said principal on the date said act went into effect, and more particularly described in a return made by the said principal to the collector of internal revenue of the —— district of ——— on or about the —— day of ———, 1917.

Now, therefore, the condition of the foregoing obligation is such that if the said principal shall well and truly pay or cause to be paid to the said collector of internal revenue not less than 20 per cent of the total amount of tax due on or before November 2, 1917; not less than 20 per cent additional on or before December 3, 1917; not less than 20 per cent additional on or before January 2, 1918; not less than 20 per cent additional on or before February 2, 1918; and not less than 20 per cent additional on or before March 2, 1918, and shall likewise pay or cause to be paid to the said collector any additional tax hereafter found to be due on such articles or any like articles so held by the said principal, then this obligation to be void; otherwise to remain in full force and effect.

——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, and delivered in presence of—

——— ———.
——— ———.

Examined and approved this —— day of ——— 191–.

——— ———,
Collector.

Such bond shall be executed in duplicate in a penal sum of not less than the tax due and in no case less than $1,000.

If the personal surety is supported by collateral security of a value clearly in excess of the amount of tax due the personal surety need not be required to qualify on Form 33.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2558.)

Schedule of articles and occupations subject to tax, and other sources of revenue.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1917.

To collectors of internal revenue and others concerned:

The following revised schedule of articles and occupations subject to tax, and other sources of revenue, is published for the information of internal-revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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Revised schedule of articles and occupations subject to tax and other sources of revenue.

SPECIAL TAXES.

	Rate of tax.
Rectifiers of less than 500 barrels a year	$100.00
Rectifiers of 500 barrels or more a year	200.00
Wholesale liquor dealers	100.00
Retail liquor dealers	25.00
Wholesale dealers in malt liquors	50.00
Retail dealers in malt liquors	20.00
Manufacturers of stills	50.00
And for stills or worms manufactured, each	20.00
Brewers:	
Annual manufacture less than 500 barrels	50.00
Annual manufacture 500 barrels or more	100.00
Manufacturers of filled cheese	400.00
Wholesale dealers in filled cheese	250.00
Retail dealers in filled cheese	12.00
Manufacturers of oleomargarine	600.00
Wholesale dealers in oleomargarine artificially colored in imitation of butter	480.00
Wholesale dealers in oleomargarine free from artificial coloration	200.00
Retail dealers in oleomargarine artificially colored in imitation of butter	48.00
Retail dealers in oleomargarine free from artificial coloration	6.00
Manufacturers of adulterated butter	600.00
Wholesale dealers in adulterated butter	480.00
Retail dealers in adulterated butter	48.00
Manufacturers of process or renovated butter	50.00
Manufacturers, packers, or repackers of mixed flour	12.00

SPECIAL TAXES IMPOSED BY THE ACT OF SEPT. 8, 1916.

Corporations, for each $1,000 of value of capital stock exceeding $99,000	.50
Brokers	30.00
Pawnbrokers	50.00
Brokers, customhouse	10.00
Brokers, ship	20.00
Theaters, museums, and concert halls:	
Seating capacity not exceeding 250	25.00
Seating capacity over 250 and not exceeding 500	50.00
Seating capacity over 500 and not exceeding 800	75.00
Seating capacity exceeding 800	100.00
Theaters, museums, and concert halls (cities, towns, or villages of 5,000 population or less): According to seating capacity, one-half of that above stated	12.50 to 50.00
Circuses (one special tax for exhibition within any one State, Territory, or District)	100.00
Exhibitions not otherwise provided for (one special tax for exhibitions within any one State, Territory, or District)	10.00
Aggregation of entertainments, known as "a street fair" (maximum)	100.00
Bowling alleys and billiard rooms, for each alley or table	5.00

SPECIAL TAX IMPOSED BY ACT OF DEC. 17, 1914.

Producers, importers, manufacturers of, dealers, etc., in opium, or compounds	1.00

SPECIAL TAXES ON MANUFACTURERS OF TOBACCO, CIGARS, AND CIGARETTES, TAKING EFFECT JAN. 1, 1917.

[Act of Sept. 8, 1916.]

Manufacturers of tobacco:	
Annual sales not over 50,000 pounds	3.00
Annual sales over 50,000 and not over 100,000 pounds	6.00
Annual sales over 100,000 and not over 200,000 pounds	12.00
Annual sales over 200,000 pounds, per 1,000 pounds or fraction	.08
Manufacturers of cigars:	
Annual sales not over 50,000 cigars	2.00
Annual sales over 50,000 and not over 100,000 cigars	3.00
Annual sales over 100,000 and not over 200,000 cigars	6.00

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Manufacturers of cigars—Continued.	Rate of tax.
Annual sales over 200,000 and not over 400,000 cigars	$12.00
Annual sales over 400,000 cigars, per 1,000 or fraction	.05
Manufacturers of cigarettes, including small cigars weighing not more than 3 pounds per thousand: Per 10,000 cigarettes, including small cigars, or fraction thereof	.03

BEVERAGES.

Distilled spirits, rectified spirits, fermented liquors and wines.	Tax under previous laws.	Additional tax, act of Oct. 3, 1917.	Total tax.
Distilled spirits, per proof gallon or wine gallon if below proof	$1.10	$2.10	$3.20
If withdrawn for other than beverage purposes	1.10	1.10	2.20
Stamps for distilled spirits intended for export, each	.10	.....	.10
Except when affixed to package containing two or more 5-gallon cans for export	.05	.....	.05
Case stamps for spirits bottled in bond	.10	.....	.10
Perfume imported containing distilled spirits, per wine gallon (to be collected by collector of customs)	.....	1.10	1.10
Grape brandy or wine spirits (to be assessed):			
Used in the fortification of sweet wines, per proof gallon	.10	.20	.30
In sweet wines held for sale by the producer on Oct. 3, 1917, per proof gallon	.....	.10	.10
Withdrawn for fortifying wine and not used prior to Oct. 3, 1917, per proof gallon	.....	.20	.20
Distilled spirits, *stock on hand:*			
On tax-paid distilled spirits held for sale on Oct. 3, 1917, in any quantity, and by a retailer in excess of 50 gallons, per gallon	.....	2.10	2.10
If intended for nonbeverage purposes, per gallon	.....	1.10	1.10
Rectified spirits (except gin produced by redistillation), per proof gallon	.....	.15	.15
Fermented liquors, per barrel, containing not more than 31 gallons (and a proportionate rate for any other quantity or for fractional parts of a barrel authorized by law)	1.50	1.50	3.00
WINES.			
Still wines, including vermuth, and artificial or imitation wines and compounds sold as wine containing:			
Not more than 14 per cent absolute alcohol per wine gallon	.04	.04	.08
Over 14 per cent but not over 21 per cent alcohol per wine gallon	.10	.10	.20
Over 21 per cent but not over 24 per cent alcohol per wine gallon	.25	.25	.50
Over 24 per cent (classed as distilled spirits) per wine gallon	1.10	2.10	3.20
Champagne or other sparkling wines, per one-half pint or fraction thereof	.03	.03	.06
Artificially carbonated wine, per one-half pint or fraction thereof	.01½	.01½	.03
Liqueurs, cordials, or similar compounds, containing sweet wine, fortified with grape brandy, or wine spirits, per one-half pint or fraction thereof	.01½	.01½	.03
Floor tax on tax-paid wines, vermuth, and artificial or imitation wines and compounds, sold as wine, held on Oct. 3, 1917, in excess of 25 gallons in the aggregate, and intended for sale, a tax equal to additional taxes imposed by act of Oct. 3, 1917	.....	.....	.....

SIRUPS, SOFT DRINKS, ETC.

[Act of Oct. 3, 1917.]

	Rate per gallon.
Upon all prepared sirups or extracts used in the manufacture of soft drinks:	
If sold for not more than $1.30 per gallon	$0.05
If sold for more than $1.30 and not more than $2	.08
If sold for more than $2 and not more than $3	.10
If sold for more than $3 and not more than $4	.15
If sold for not more than $4	.20
Upon all unfermented grape juice, soft drinks, or artificial mineral waters (not carbonated) and fermented liquors containing less than one-half per cent of alcohol, sold by manufacturer, producer, or importer, in bottles or closed containers	.01
Upon all ginger ale, root beer, sarsaparilla, pop, and all other carbonated waters or beverages manufactured and sold by the manufacturer, producer, or importer of the carbonic-acid gas used in carbonating the same	.01
Upon all natural mineral waters or table waters sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon	.01
Upon all carbonic-acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks), sold by the manufacturer, producer, or importer thereof ..... per pound	.05

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TOBACCO.

Tobacco, snuff, cigars, and cigarettes.	Old rate.	Rate in effect Oct. 4, 1917.[1]	Rate in effect Nov. 2, 1917.
A. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at less than 4 cents each	$3.00	$3.00	$3.00
B. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at 4 cents or more and not more than 7 cents	3.00	3.50	4.00
C. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 7 cents and not more than 15 cents each	3.00	4.50	6.00
D. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 15 cents and not more than 20 cents each	3.00	5.50	8.00
E. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 20 cents each	3.00	6.50	10.00
Cigars weighing *not* more than 3 pounds per 1,000	.75	.87½	1.00
Cigarettes weighing *not* more than 3 pounds per 1,000	1.25	1.65	2.05
Cigarettes weighing more than 3 pounds per 1,000	3.60	4.20	4.80
Tobacco, however prepared, manufactured, and sold, or removed for consumption or sale, per pound	.08	.10½	.13
Snuff, however prepared, manufactured, and sold, or removed for consumption or sale, per pound	.08	.10½	.13

[1] *Explanatory of second column.*—Rates of tax on tobacco, etc., removed from factory or customhouse from Oct. 4, 1917, to Nov. 1, 1917, inclusive, payable by stamp—price including half additional taxes imposed.

FLOOR TAX ON TAX-PAID PRODUCTS IN THE HANDS OF DEALERS, OCT. 4, 1917.

	Rate.
On cigars, class B	$0.50
On cigars, class C	1.50
On cigars, class D	2.50
On cigars, class E	3.50
On small cigars	.12½
On small cigarettes	.40
On large cigarettes	.60
On tobacco and snuff	.02½

CIGARETTE PAPER AND TUBES.

[Taxes effective Nov. 2, 1917.]

Cigarette paper made up in United States or imported, intended for making cigarettes, per package of—	
Over 25, but not over 50 papers	.00½
50 to 100 papers	.01
Over 100 papers, for each 100 or fraction	.01
Cigarette tubes, for each 100 or fraction	.02

OLEOMARGARINE.

Oleomargarine, domestic, artificially colored to look like butter, of any shade of yellow, per pound	.10
Oleomargarine, free from coloration that causes it to look like butter, of any shade of yellow, per pound	.00¼
Oleomargarine, imported from foreign countries, per pound	.15

ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER.

Adulterated butter, per pound	.10
Process or renovated butter, per pound	.00¼

FILLED CHEESE.

Filled cheese, per pound	.01
Same, imported, per pound	.08

MIXED FLOUR.

Mixed flour, per barrel of 196 pounds, or more than 98 pounds	0.04
Half barrel of 98 pounds, or more than 49 pounds	.02
Quarter barrel of 49 pounds, or more than 24½ pounds	.01
Eighth barrel of 24½ pounds or less	.00½

(Mixed flour imported from foreign countries, in addition to import duties, must pay internal-revenue tax as above.)

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OPIUM.

	Rate.
Opium manufactured for smoking purposes, per pound	$300.00

PLAYING CARDS.

Playing cards, per pack, containing not more than 54 cards (old rate, 2 cents; additional tax under schedule A, act of Oct. 3, 1917, 5 cents) per pack	.07

WHITE PHOSPHORUS MATCHES.

White phosphorus matches, per hundred	.02

WAR TAX ON FACILITIES FURNISHED BY PUBLIC UTILITIES AND INSURANCE.

[Effective Nov. 1, 1917.

On amount paid for freight transportation	3 per cent.
On amount paid for express transportation, on each 20 cents or fractional part thereof	$0.01
On amount paid for transportation of persons	8 per cent.
(Exemption: Commutation or season tickets for trips less than 30 miles, and transportation the fare for which does not exceed 35 cents.)	
On amount paid for seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels	10 per cent.
On amount paid for transportation of oil by pipe lines	5 per cent.
On each telephone, telegraph, or radio message for which a charge of 15 cents or more is imposed	$0.05

INSURANCE.

Life insurance:	
Upon each $100 or fractional part thereof of amount of insurance	$0.08
On policies not in excess of $500, issued on the industrial or weekly payment plan, of amount of first weekly premium	40 per cent.
Marine, inland, and fire insurance: Upon each dollar or fractional part thereof of premium charged	$0.01
Casualty insurance (except bonds taxable under subdivision (2) of schedule A, act of Oct. 3, 1917) upon each dollar or fractional part thereof of premium charged	$0.01

Exemptions: Policies of reinsurance; policies issued by any person, corporation, partnership, or association, whose income is exempt from taxation under Title I of the act of Sept. 8, 1916.

WAR EXCISE TAXES.

[Taxes effective Oct. 4, 1917.]

	Rate.
(a) Upon automobiles, automobile trucks, automobile wagons, and motorcycles, sold by the manufacturer, producer, or importer, of the price for which sold	3 per cent.
(b) Upon piano players, graphophones, phonographs, talking machines, and records used in connection therewith or with any musical instrument, sold by the manufacturer, producer, or importer, of the price for which sold	3 per cent.
(c) Upon moving picture films (which have not been exposed) sold by the manufacturer or importer, per linear foot	¼ of 1 cent.
(d) Upon all positive moving picture films (containing a picture ready for projection) sold or leased by the manufacturer, producer, or importer, per linear foot	½ of 1 cent.
(e) Upon all articles commonly or commercially known as jewelry, whether real or imitation, sold by the manufacturer, producer, or importer, of the price for which sold	3 per cent.
(f) Upon all tennis rackets, golf clubs, baseball bats, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard, and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games, except playing cards and children's toys and games, sold by the manufacturer, producer, or importer, of the price for which sold	3 per cent.

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	Rate.
(*g*) Upon all perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentrifices, tooth pastes, aromatic cachous, toilet soaps and powders, or any similar article, or preparation by whatsoever name known, sold by the manufacturer, producer, or importer, of the price for which sold....	2 per cent.
(*h*) Upon all pills, tablets, powders, tinctures, troches, or lozenges, sirups, medicinal cordials or bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, etc., and all medicinal preparations, compounds whatsoever, the manufacturer or producer of which claims to have any private formula for making or preparing the same or claims to have any exclusive right or title to the making or preparing the same or letters patent or trade mark or are held out or recommended to the public as proprietary medicines or medicinal proprietary articles or preparations or remedies or specifics for any disease, sold by the manufacturer, producer, or importer, of the price for which sold.....	2 per cent.
(*i*) Upon all chewing gum or substitute therefor, sold by the manufacturer, producer, or importer, of the price for which sold.....	2 per cent.
(*j*) Upon all cameras sold by the manufacturer, producer, or importer, of the price for which sold	3 per cent.
On all articles enumerated in subdivisions, (*a*), (*b*), (*e*), (*f*), (*g*), (*h*), (*i*), and (*j*) held on hand on Oct. 3, 1917, and intended for sale by other than a retailer who is not also a wholesaler or by the manufacturer, producer, or importer, a tax equivalent to one-half of the tax imposed by such subdivisions.	
Upon all yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over 5 net tons, length—	
Not over 50 feet, for each foot	$0.50
Over 50 feet and not over 100 feet, per foot.....	$1.00
Over 100 feet, per foot.....	$2.00
Motor boats of not over 5 net tons with fixed engines.....	$5.00

WAR TAX ON ADMISSIONS AND DUES.

[In effect Nov. 1, 1917.]

	Rate of tax.
Admissions to any place:	
For each 10 cents paid or fractional part thereof.....	$0.01
Where admission is charged for children under 12 years of age, in every case.....	$0.01
For permanent use of boxes or seats in an opera house or any place of amusement or a lease for use of such box or seat in such opera house or place of amusement, of price for which similar boxes or seats are sold	10 per cent.
Exemption: Where the maximum charge is 5 cents, or in case of shows, rides, and other amusements (the maximum charge for admission to which is 10 cents) within outdoor general amusement parks, or in case of admissions to such parks.	
Club dues: On amount paid as dues or membership fees, including initiation fees, to any social, athletic, or sporting organization, where such dues or fees are in excess of $12 per year.....	10 per cent.
Exemption: In case of any fraternal beneficiary society, order, or association, operating under the lodge system.	

INCOME TAXES.

INDIVIDUAL INCOME TAX FOR THE YEAR 1917 AND SUCCEEDING YEARS.

On net income of citizens and resident aliens[1] in excess of the following exemptions:	
Exemption from normal tax imposed by act of Sept. 8, 1916, as amended—	
If single.....	$3,000
If married or head of a family.....	4,000
For each dependent child under 18 years of age, or if incapable of self-support because mentally or physically defective.....	200

[1] Nonresident aliens, income of: Subject to normal tax under act of Sept. 8, 1916, as amended, only. No exemption allowed under either act. Can receive benefit of deductions and credits provided to be deducted from gross income only by filing or causing to be filed a true and accurate return.

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On net income of citizens and resident aliens in excess of the following exemptions—Continued.

Exemption from normal tax imposed by act of Oct. 3, 1917—

If single	$1,000
If married or head of a family	2,000
For each dependent child under 18 years of age, or if incapable of self-support because mentally or physically defective	200

NORMAL TAX.[1]

Amount of income.	Normal tax under act of Sept. 8, 1916.	Normal tax under act of Oct. 3, 1917.	Total normal tax.
	Per cent.	*Per cent.*	*Per cent.*
Unmarried persons:			
Over $1,000 and not over $3,000	.....	2	2
Over $3,000	2	2	4
Married persons or heads of families:			
Over $2,000 and not over $4,000	.....	2	2
Over $4,000	2	2	4

[1] 4 per cent always on amount in excess of allowable exemption under act of Sept. 8, 1916, as amended.

ADDITIONAL TAX.

Amount of income.	Under act of Sept. 8, 1916.	Under act of Oct. 3, 1917.	Total.
	Per cent.	*Per cent.*	*Per cent.*
Over $5,000 and not over $7,500	.....	1	1
Over $7,500 and not over $10,000	.....	2	2
Over $10,000 and not over $12,500	.....	3	3
Over $12,500 and not over $15,000	.....	4	4
Over $15,000 and not over $20,000	.....	5	5
Over $20,000 and not over $40,000	1	7	8
Over $40,000 and not over $60,000	2	10	12
Over $60,000 and not over $80,000	3	14	17
Over $80,000 and not over $100,000	4	18	22
Over $100,000 and not over $150,000	5	22	27
Over $150,000 and not over $200,000	6	25	31
Over $200,000 and not over $250,000	7	30	37
Over $250,000 and not over $300,000	8	34	42
Over $300,000 and not over $500,000	9	37	46
Over $500,000 and not over $750,000	10	40	50
Over $750,000 and not over $1,000,000	10	45	55
Over $1,000,000 and not over $1,500,000	11	50	61
Over $1,500,000 and not over $2,000,000	12	50	62
Over $2,000,000	13	50	63

CORPORATION INCOME TAX FOR YEAR 1917 AND SUCCEEDING YEARS.

Total net income.	Tax under act of Sept. 8, 1916.	Additional tax under act of Oct. 3, 1917.	Total tax.
	Per cent.	*Per cent.*	*Per cent.*
On amount of net income	2	4	6
On net income undistributed 6 months after the end of each calendar or fiscal year, excluding any income taxes paid within the year, an additional tax of	.....	10	10
(The undistributed net income for the purpose of this tax may be reduced by such portion thereof as is employed or required to be employed in the business, or is invested in United States obligations issued after Sept. 1, 1917.)			

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WAR EXCESS-PROFITS TAX.

[Act of Oct. 3, 1917.]

(Deduction to be determined as provided.)	Per cent.
On amount of net income of every corporation, partnership, or individual in excess of deduction and not in excess of 15 per cent of invested capital for taxable year	20
In excess of 15 per cent and not exceeding 20 per cent	25
In excess of 20 per cent and not exceeding 25 per cent	35
In excess of 25 per cent and not exceeding 33 per cent	45
In excess of 33 per cent of such invested capital	60
On amount of net income in excess of deduction in the case of a trade or business, including professions and occupations, having no invested capital or not more than a nominal capital	8

Exemptions.—(*a*) In the case of officers and employees under the United States, or any State, Territory, or the District of Columbia, or any local subdivision thereof, the compensation or fees received by them as such officers or employees; (*b*) corporations exempt from tax under the provisions of section 11 of Title I of such act of September 8, 1916, as amended by this act, and partnerships and individuals carrying on or doing the same business, or coming within the same description; and (*c*) incomes derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan.)

Trade or business of a foreign corporation or partnership or a nonresident alien individual, the net income of which trade or business during the taxable year is less than $3,000.

MUNITION MANUFACTURERS' TAX.

[Act of Sept. 8, 1916, as amended by sec. 214 of act of Oct. 3, 1917, for taxable year 1917.]

	Per cent.
On net profits of manufacturers of gunpowder and other explosives, etc., except for industrial purposes	10

(Expires by limitation Dec. 31, 1917.)

ESTATE TAX.

[Rates of taxes on the transfer of net estates under act of Sept. 8, 1916, act of Mar. 3, 1917, and act of Oct. 3, 1917.]

Amount of net estate (an exemption of $50,000 is allowed estates of residents of the United States, in computing the value of net estate.)	Rates on net estates at date of death.[1]		
	Sept. 9, 1916, to Mar. 2, 1917, inclusive.	Mar. 3, 1917, to Oct. 3, 1917, inclusive.	On and after Oct. 4, 1917
	Per cent.	*Per cent.*	*Per cent.*
Not exceeding $50,000	1	1½	2
Exceeding $50,000 and not exceeding $150,000	2	3	4
Exceeding $150,000 and not exceeding $250,000	3	4½	6
Exceeding $250,000 and not exceeding $450,000	4	6	8
Exceeding $450,000 and not exceeding $1,000,000	5	7½	10
Exceeding $1,000,000 and not exceeding $2,000,000	6	9	12
Exceeding $2,000,000 and not exceeding $3,000,000	7	10½	14
Exceeding $3,000,000 and not exceeding $4,000,000	8	12	16
Exceeding $4,000,000 and not exceeding $5,000,000	9	13½	18
Exceeding $5,000,000 and not exceeding $8,000,000	10	15	20
Exceeding $8,000,000 and not exceeding $10,000,000	10	15	22
Exceeding $10,000,000	10	15	25

[1] The tax on the transfer of the net estates of decedents dying on and after Sept. 9, 1916, to and including Mar. 2, 1917, shall be computed at the rates prescribed in the act of Sept. 8, 1916.

The tax on the transfer of the net estates of decedents dying on and after Mar. 3, 1917, to and including Oct. 3, 1917, shall be computed at the rates prescribed in the act of Mar. 3, 1917.

Exemptions.—An exemption of $50,000 is allowed estates of residents of the United States in computing the value of net estate. The transfer of the net estate of any decedent dying while serving in the military or naval forces of the United States during the present war, or in case of death from injuries or disease contracted in such service, within one year after the termination of the war, is exempt from payment of the *additional tax* imposed by the act of Oct. 3, 1917.

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WAR STAMP TAXES.

Act of Oct. 3, 1917.

[In effect on and after Dec. 1, 1917.]

Schedule A.

	Rate.
1. Bonds, debentures, or certificates of indebtedness issued by any person, corporation, partnership, or association on each $100 of face value or fraction thereof	$0.05
2. Indemnity and surety bonds	.50
Where premium is charged for the execution of such bond, on each dollar or fractional part thereof, 1 per cent.	
3. Capital stock issue: On each original issue of certificates of stock, whether on organization or reorganization, on each $100 of face value or fraction thereof	.05
Capital stock issued without face value, on each $100 of actual value or fraction thereof, per share	.05
4. Capital stock, sales, or transfers: On all sales, or agreements to sell, or memoranda of sales, or deliveries of or transfers of legal title to shares or certificates of stock of any association, company, or corporation on each $100 of actual or face value or fraction thereof	.02
5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell any products or merchandise at any exchange or board of trade or similar place for future delivery, for each $100 in value of the merchandise covered	.02
And for each additional $100 or fraction thereof	.02
6. Drafts or checks payable otherwise than at sight or on demand, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100	.02
And for each additional $100 or fraction thereof	.02
7. Conveyances: Deed, instrument, or writing conveying lands, tenements, or other realty sold, etc., value over $100 and not exceeding $500	.50
For each additional $500 or fractional part thereof	.50
8. Entry of goods, wares, or merchandise at any customhouse, not exceeding $100 in value	.25
Exceeding $100 and not exceeding $500 in value	.50
Exceeding $500 in value	1.00
9. Entry for the withdrawal of goods or merchandise from customs-bonded warehouses	.50
10. Passage tickets, one way or round trip, for each passenger, sold or issued in the United States for passage by vessel to places not in the United States, Canada, or Mexico, costing not exceeding $30	1.00
More than $30 and not exceeding $60	3.00
More than $60	5.00
(Passage tickets costing $10 or less exempt.)	
11. Proxy for voting at any election of officers of any incorporated company or association, except religious, charitable, fraternal, or literary societies, or public cemeteries	.10
12. Power of attorney	.25
(*Exemption.*—Papers used in the collection of claims for pensions, back pay or bounty, or for property lost in the military or naval service, or in bankruptcy cases.)	
13. Playing cards: Upon every pack containing not more than 54 cards, in addition to tax imposed under existing law. (Effective Oct. 4, 1917.)	.05
14. Parcel-post packages, where the postage amounts to 25 cents or more, for each 25 cents or fractional part thereof	.01

COTTON-FUTURES ACT.

[Act of Aug. 11, 1916.]

	Rate.
Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, for each pound of cotton involved (to be paid by stamp)	$0.02

Tax not to be levied on contracts complying with conditions prescribed. [The collection of this tax devolves on the Commissioner of Internal Revenue under regulations of the Secretary of the Treasury.]

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MISCELLANEOUS TAXES NOT PAYABLE BY STAMP.

	Rate of tax.
Circulation issued by any bank, etc., or person (except a national bank taxed under sec. 5214, Rev. Stat., and sec. 13, act of Mar. 14, 1900), per month	$\frac{1}{12}$ of 1 per cent
Circulation (except national banks) exceeding 90 per cent of capital, in addition, per month	$\frac{1}{4}$ of 1 per cent.
Banks, etc., on amount of notes of any person, State bank, or State-banking association, used for circulation and paid out	10 per cent.
Banks, etc., bankers, or associations, on amount of notes of any town, city, or municipal corporation paid out by them	10 per cent.
Every person, firm, association, other than national-banking associations, and every corporation, State bank, or State-banking association, on the amount of *their own notes* used for circulation and paid out by them	10 per cent.
Every such person, firm, association, corporation, State bank, or State-banking association, and also every national-banking association, on the amount of notes of any person, firm, association, other than a national-banking association, or of any corporation, State bank, or State-banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them.	10 per cent.
On deficiencies in production of spirits.	
On spirits which excess of materials used should produce under survey.	
On fruit brandy required to be produced from materials used and not reported.	
On spirits produced and not accounted for.	
Order blanks for procuring opium (act of Dec. 17, 1914), per hundred.	$1.
Taxes ordinarily payable by stamps not paid at the time and in the manner required by law.	

FEES, PENALTIES, ETC.

Fees of $1 for 100 words or fraction thereof to be charged by collectors for furnishing certified copies of lists of special taxpayers upon applications of prosecuting officers of any State, county, or municipality.
Same fees for furnishing any person list of special taxpayers under the opium act.
Same fees for furnishing officials with certified copies of statements or returns under the opium act.
Penalties of 50 per cent and 100 per cent for failure to make certain returns or for making false returns, respectively.
Penalty of 5 per cent for failure to pay assessed taxes within the time limited by law.
One per cent a month interest required by law to be paid by a taxpayer on an assessed tax overdue.
Penalties for validating instruments.

(T. D. 2559.)

Distilled spirits.

Instructions relative to the sale and use of distilled spirits for other than beverage purposes under the food-control act of August 10, 1917, and the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Section 15 of the act of August 10, 1917, entitled "An act to provide further for the national security and defense by encouraging the

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production, conserving the supply, and controlling the distribution of food products and fuel," is as follows:

SEC. 15. That from and after thirty days from the date of the approval of this act no foods, fruits, food materials, or feeds shall be used in the production of distilled spirits for beverage purposes: *Provided*, That under such rules, regulations, and bonds as the President may prescribe, such materials may be used in the production of distilled spirits exclusively for other than beverage purposes, or for the fortification of pure sweet wines as defined by the act entitled "An act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen. Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof. Any person who willfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding $5,000, or by imprisonment for not more than two years, or both: *Provided further*, That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

Section 16 of the act is as follows:

SEC. 16. That the President is authorized and directed to commandeer any or all distilled spirits in bond or in stock at the date of the approval of this act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies, or in so far as such redistillation would dispense with the necessity of utilizing products and materials suitable for foods and feeds in the future manufacture of distilled spirits for the purposes herein enumerated. The President shall determine and pay a just compensation for the distilled spirits so commandeered; and if the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation for such spirits, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

EXECUTIVE ORDER.

Acting under the authority of section 2 of the act of Congress approved August 10, 1917, entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution

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of food products and fuel," which section reads in part, as follows: "That in carrying out the purposes of this act the President is authorized * * * to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds;" because the office of the Commissioner of Internal Revenue in the Treasury Department is now regulating the production of distilled spirits through the United States and is in control of the machinery necessary to enforce effectively the provisions of sections 15 and 16 of the aforesaid act of August 10, 1917, relating to distilled spirits:

Now, in order more effectively to enforce the provisions of said act, and to avoid preventable duplication of effort and funds, I hereby direct that the Treasury Department shall henceforth supervise, direct, and carry into effect the provisions of sections 15 and 16 of said act of August 10, 1917, and exercise the powers and authority therein given to the President, subject to such instructions and regulations as may from time to time be issued by the President. For this purpose the Secretary of the Treasury is hereby authorized to assign such duties to the Commissioner of Internal Revenue, the internal revenue officers of the United States, and the Division of Customs, and to employ such additional assistants as he may deem necessary therefor.

The Executive order dated August 10, 1917, providing for the organization of the United States Food Administration, so far as it is inconsistent herewith, is hereby modified.

WOODROW WILSON.

WASHINGTON, D. C., *September 2, 1917.*

The following regulations are hereby promulgated under the order of the President of the United States, pertaining to the sale and use of distilled spirits manufactured for other than beverage purposes, produced from food and feed materials fermented after September 8, 1917, and under the act of October 3, 1917, making a distinction in the rates of taxation on distilled spirits produced for other than beverage purposes and those produced for beverage purposes:

FREE WITHDRAWALS.

These regulations do not apply to alcohol withdrawn for denaturation, to alcohol withdrawn for scientific purposes under section 3297, Revised Statutes, to distilled spirits withdrawn for use of the United States free of tax under section 3464, Revised Statutes, or to spirits withdrawn for export, these cases being already provided for by a system of permits, bonds, etc.

DISTILLED SPIRITS FOR BEVERAGE PURPOSES PROHIBITED.

The manufacture of distilled spirits from foods, fruits, food materials, or feeds for beverage purposes is prohibited after September 8, 1917.

All persons are forbidden to use any distilled spirits manufactured from foods, fruits, food materials, or feeds after September 8, 1917, in manufacturing or preparing beverages or to sell any such spirits for beverage purposes.

Foods, fruits, food materials, or feeds prohibited for use in producing beverage spirits are held to include all cereals, tubers, fruits, molasses, grape cheese, apple cheese, fruit parings, cannery refuse,

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beet-sugar molasses, sour wine, dilute saccharin liquid derived from sawdust, wood waste, pulp, and like bases (see Mim. 1627, which is held to include sirup derived from cactus known as "sotol"), and all other foods, feeds, fruits, food materials, and the by-products thereof. This paragraph does not apply to the production of grape spirits solely for use in the fortification of sweet wines under the act of September 8, 1916.

BRANDY MADE FROM GRAPES.

The fermenting and distilling of any materials for production of beverage brandy after September 8, 1917, is prohibited. Brandy produced from grapes may be distilled for fortifying sweet wines under the act of September 8, 1916, and act of August 10, 1917. Brandy may be produced from materials fermented after September 8, 1917, for other than beverage purposes.

LABELS.

Distilled spirits manufactured for other than beverage purposes from foods, fruits, food materials, or feeds fermented after September 8, 1917, when entered into warehouse must bear a printed label, to be provided by the distiller, bearing the following legend:

These spirits were produced from materials fermented after September 9, 1917. All persons are warned that their use in the manufacturing or preparation of beverages, or their sale for beverage purposes will subject the persons so using or selling them to a fine of not exceeding $5,000 or imprisonment for not more than two years, or both.

This label shall bear the date when affixed, shall be signed in the distiller's name by the distiller or his legal representative, and shall be pasted to the commercial head of the barrel and secured thereto by five tacks, one in each corner and one in the middle of the label. The label must be rectangular in form, 6 by 4 inches, and must be printed in letters easily legible.

When the spirits are contained in metal packages, such as tanks or tank cars, the use of tacks will not be required but the label must be securely pasted in a conspicuous place on the surface of the package, and in case of large tanks or tank cars must be proportionately larger than the regularly prescribed size, so as to be conspicuous.

As to signatures to these labels, facsimiles of the distiller's signature may be imprinted on the labels either by printing, engraving, or rubber hand stamp. No advertising matter will be permitted on this label.

CHANGE OF PACKAGE.

All persons are forbidden to transfer any such spirits from one container to another, whether rectified in the interval or not, without placing a label upon the new container bearing the same legend as

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that above prescribed, unless such spirits shall have been denatured under the supervision of internal-revenue officers. This regulation shall not apply to containers holding 1 pint or less intended for sale to the public for nonbeverage purposes.

All labels on packages containing nonbeverage spirits must remain intact until the package is completely emptied and the marks, brands, and stamps are to be effaced and obliterated. Dealers are not, therefore, at liberty to substitute their own labels for such unchanged packages, or to cover or deface the same in any manner.

BOOKS AND TRANSCRIPTS.

When the packages bearing labels as above described are sent out from the distillery, proper entries will be made on the distiller's record, 52c, and the date of production must be inserted by interlineation in red ink on said record, and like interlineation must be made on the transcript thereof sent to the collector's office. The storekeeper, in his record 18, will enter in red ink the date and number of the permit when the spirits are withdrawn from warehouse under a permit as hereinafter provided. If any spirits bearing such labels are for any legitimate reason shipped to and received by a rectifier for rectification, similar entry will be made by interlineation in the dump sheet, Form 122, in the rectifier's record 64 and in the collector's record 39, showing the date of production, and also the purpose for which dumped for rectification. In all such cases collectors will cause investigation to be made before permitting the dumping of the spirits, in order to satisfy themselves that the spirits are not to be employed in any way in the manufacture of beverage goods. Rectifiers and wholesale liquor dealers will also be required to enter by interlineation in red ink as above on Book 52 the date of production as to all such packages received, and to make similar entries on monthly transcripts, Forms 52A and 52B.

PERMITS.

All persons, firms, or corporations (except distillers and proprietors of bonded warehouses, making deliveries in the original tax-paid packages, who are already required to give bonds) desiring to use or sell or to use and sell distilled spirits for other than beverage purposes, will be required first to qualify therefor by filing with the collector of the district in which the business is to be conducted an application, in duplicate, for a permit, and a bond, in duplicate, to be approved by the collector of the district.

All persons are forbidden to sell or deliver distilled spirits for use or sale or for use and sale for other than beverage purposes, if produced subsequent to September 8, 1917, or tax paid at the rate of $2.20 per proof gallon, to any person, firm, or corporation not qualified as a user or dealer as herein required, and then only upon the delivery

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by the person so qualified of application therefor in due form, approved by the collector of the district in which the applicant's place of business is located.

The application for permit should contain a full statement of the purpose for which the applicant desires to use the spirits, and if the same are to be used in the manufacture of proprietary medicines, the application must be accompanied by a copy of the manufacturer's formula and a sample of his product, which should be forwarded to this office for approval before issuing the permit, unless the formula and sample have heretofore been passed upon favorably by this office. If the alcoholic compound is already listed in T. D. 2222, or subsequent decisions of similar purport as one requiring special tax for its manufacture and sale, permit shall not be issued, nor will permits be issued to retail liquor dealers, except pharmacists, as hereinafter provided.

If it should appear on proper showing made at any time that the party to whom a permit has been issued has willfully violated any of the provisions of the law or regulations relating to the using or handling of such spirits, it shall be the duty of the collector to recall and cancel the permit and report the facts to the Commissioner of Internal Revenue, with his recommendations in the premises.

The following form of application, which when approved by the collector becomes a permit, must be used:

U. S. Internal Revenue. Serial No. of permit ——.
Form ——.

APPLICATION FOR PERMIT TO USE OR SELL DISTILLED SPIRITS FOR OTHER THAN BEVERAGE PURPOSES, WITH COLLECTOR'S APPROVAL THEREOF.

——— —, 19—.

To ——— ———,
Collector, —— *District of* ———.

The undersigned, having filed appropriate bond, hereby makes application to use,[1] sell,[1] use and sell,[1] distilled spirits for other than beverage purposes,[2] ———
(If this space is insufficient to enter required details, same may be continued on a separate sheet to be pasted hereto.)

The probable quantity that will remain outstanding as a charge against the applicant's bond undisposed of, in transit, in process of manufacture, or on storage, will be ——— proof gallons.

(Signed) ——— ———,
———,
———.

Approved:
——— ———,
Collector, —— *District of* ———.
Dated, ——— ———, 19—.

[1] Strike out words not applicable.

[2] Here state in detail the purpose for which the alcohol is to be used, and if to be sold, insert a statement that it will be sold only to users or dealers holding like permits, and for nonbeverage purposes.

This application is to be made by the applicant in duplicate. After approval, one copy is to be retained by the collector and the other delivered to the applicant, who will post the same conspicuously in his place of business. Nontransferable and may be canceled or revoked by the Commissioner of Internal Revenue or the collector of the district.

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The application should be made in duplicate. One copy after approval will be retained by the collector in his files and the other with the collector's approval indorsed thereon will be returned to the applicant, who will post the same conspicuously in his place of business. The application so approved, which by the act of approval becomes a continuing permit, is nontransferable and may be revoked and canceled by the Commissioner of Internal Revenue or by the collector of the district.

No permit should be granted to a manufacturer of beverages nor where the spirits are intended to be used for beverage purposes.

The sale or use of medicinal and culinary or flavoring extracts made with nonbeverage distilled spirits for beverage purposes or for manufacture into beverages will subject the seller or user to the penalties provided.

In this connection attention is called to T. D. 1843, defining the standards used in determining special-tax liability of manufacturers of and dealers in flavoring extracts, soda-water sirups, etc., containing alcohol, and alcoholic compounds containing medicinal ingredients.

Dealers and users will be relieved from liability for the penalty if the spirits are changed according to the standards therein established.

BOND.

The applicant, before or at the time of obtaining a permit, is required to furnish a bond, with corporate surety, in duplicate, conditioned that he shall fully and faithfully comply with all the requirements of the act of Congress approved August 10, 1917, known as the food-control act, and all regulations issued pursuant thereto, and with all the requirements of the internal-revenue laws of the United States and all regulations issued pursuant thereto. If the collector finds the bond sufficient in all respects, he shall approve the same by his indorsement thereon, and file one copy, bearing any documentary stamp or stamps that may be necessary under the law existing at the time of execution, in his office, and forward the other copy, with indorsement as to documentary stamps affixed to the retained copy, if necessary, to the Commissioner of Internal Revenue.

The penal sum of the bond will be three times the difference between the tax on beverage and nonbeverage spirits, on the quantity of spirits which, according to the application for a permit in the case, will at any time remain outstanding against the bond.

INSTRUCTIONS FOR PREPARATION OF BOND.

The following instructions must be particularly observed and complied with, viz:

(1) The Christian names must be written in the body of the bond in full, and so signed to the bond.

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(2) Bonds of corporations must be filled in and signed with the exact corporate name, with the corporate seal attached, and with the name and title of the officer authorized to affix the corporate signature and seal.

(3) The residence of each signer must be stated in the bond.

(4) A seal of wax or wafer must be attached to each signature, other than that of a corporation, which must be attested by the corporate seal.

(5) Each signature, other than that of a corporation, must be made in the presence of two witnesses, who must sign their names as such.

The bond is to be continuing and indeterminate, and will be in form as follows:

U. S. 'nternal Revenue. Serial No. of permit ——
Form ——.

BOND OF APPLICANT FOR PERMIT TO USE OR SELL DISTILLED SPIRITS FOR OTHER THAN BEVERAGE PURPOSES.

Know all men by these presents, that ——— ———, of ———, as principal, and ——— ———, of ———, as surety, are held and firmly bound unto the United States of America in the sum of —— dollars, lawful money of the United States, for the payment whereof to the United States we bind ourselves, our heirs, executors, administrators, successors or assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this —— day of ———, 191–.

Whereas the above-bounden principal has made application for a permit to use,[1] sell,[1] use and sell,[1] distilled spirits for other than beverage purposes at ——— in the —— collection district of ———.

Now, therefore, the condition of this obligation is such that if the said principal shall fully and faithfully comply with all the requirements of the act of Congress, approved August 10, 1917, known as the food-control act, and all regulations issued pursuant thereto, and with all the requirements of the internal-revenue laws of the United States and all regulations issued pursuant thereto, then this obligation to be void; otherwise to remain in full force and virtue.

——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, and delivered in the presence of—

——— ———.
——— ———.
——— ———.

The dealer or user having received a permit and posted the same in accordance with instructions herein, is then at liberty at any time to make application for the withdrawal from bonded warehouses or to purchase from wholesale liquor dealers specific quantities of distilled spirits for use or sale or for use and sale for other than beverage purposes. In making such application, he will in the form hereinafter prescribed describe the spirits to be received by him with as much particularity as the character of the container will

[1] Strike out words not applicable.

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permit. In all cases, the quantity in wine gallons and proof gallons, as well as the tax gallons and the proof, will be stated. When contained in a distiller's original package, the package number will be stated; in other cases the serial number of the stamp affixed to the package. The applicant will also see that the tax on the spirits outstanding as a debit against his bond as well as the additional quantity applied for is not such in the aggregate that the tax thereon at the differential rate will exceed one-third the penal sum of his bond. Great care will be taken by the applicant to invariably fill the blank spaces in the affidavit headed "Proof gallons," the items called for being entered with particularity and accuracy.

The application for withdrawal or purchase containing a statement of the outstanding quantities of spirits debited against the applicant's bond must in all cases be sworn to before an officer authorized to administer oaths, and unless so sworn the collector will decline to approve the same and return the application unapproved. The application should be signed by the applicant in the appropriate space. Where the applicant is a copartnership or corporation, the affidavit must be made by a member of the firm or by an officer of the corporation, who will state his relation to the firm or corporation, as the case may be, in the appropriate space. In all cases the penal sum of the bond will be stated in the application in the blank space provided for the same.

The application to withdraw or purchase will be made to the collector of the district who issued the permit to use or sell and will always be made in triplicate. The collector, if he finds the applicant entitled to use the nonbeverage spirits, will indorse his approval in the appropriate space on all three copies, and retain one for his files, returning the other two copies to the applicant, who will retain one on file at his place of business and present one to the distiller or wholesale liquor dealer from whom the spirits are to be obtained as authority to the latter for making the delivery of the spirits. This authority should be filed by the person making the delivery in his place of business for his own protection.

The application to withdraw or purchase with the collector's approval thereon will be in the following form:

U. S. Internal Revenue. Serial No. of permit ——.
Form ——.

APPLICATION FOR WITHDRAWAL OR PURCHASE OF DISTILLED SPIRITS FOR USE OR SALE FOR OTHER THAN BEVERAGE PURPOSES WITH COLLECTOR'S APPROVAL THEREOF.

———, 19—.

To ——— ———,
Collector, —— *District of* ———.

The undersigned requests permission to withdraw or purchase from ——— ——— of ———, in the —— district of ———, the following described distilled spirits for use,[1] sale,[1] use and sale [1] for other than beverage purposes:

[1] Strike out words not applicable.

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Number of packages.	Serial No. of each package	Wine gallons.	Proof.	Proof gallons.	Tax gallons.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
	Total.....	.....	.....	.....	.....

(Signed) ——— ———.

I hereby certify that I am ——— ———, the holder of the permit to use distilled spirits for other than beverage purposes bearing the serial number above specified; that I am acquainted with the business of the holder of said permit; and that the following details in regard thereto are true:

	Proof gallons.
Quantity distilled spirits disposed of under permit in accordance with terms thereof since July 1, 19—.....	.....
Quantity still outstanding, undisposed of, this day.....	.....
Quantity applied for herein.....	.....
Total.....	.....
Penal sum of current bond.....	$.....

(Signed) ——— ———,

———.

Subscribed and sworn to before me this —— day of ———, 19—.

——— ———,

——— ———.

Approved:

———,

Collector, —— *District of* ———.

Dated, ——— ———, 19—.

This application is to be made by the applicant in triplicate.

The application for permit to use or sell with collector's approval thereon, the bond, and the application for withdrawal or purchase with collector's approval thereon must be prepared by the applicant in typewriting on paper 8 by 10½ inches in size. All these forms (except the permit held by the user or dealer, which must be posted conspicuously at his place of business) will be filed in the collector's office and (with the exception of the bond) at the place of business of the user or dealer and at that of the person selling or delivering the spirits to the user or dealer, in letter-size cabinets, conveniently arranged for ready reference.

All applications for permits to use or sell will, when approved by the collector, be given a serial number, which will invariably be entered in the appropriate space in the right upper corner of the original application and upon all subsequent applications for withdrawal or purchase as well as upon the bond in each case.

In each and every case where the holder of the permit retires from the business and surrenders his permit to the collector of the district,

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and there are no outstanding charges against his bond, or if for any reason the collector or the Commissioner of Internal Revenue recalls and cancels a permit, the collector will promptly notify the Commissioner of Internal Revenue that the bond of the holder of the permit may be canceled as to future liability and same action to be taken in the collector's office. It is important, therefore, that holders of permits promptly notify collectors of internal revenue of retirement from business requiring permit and surrender such permits that the bonds may be canceled and the question of premiums thereon be settled.

USE OF DISTILLED SPIRITS FOR OTHER THAN BEVERAGE PURPOSES.

Distilled spirits for other than beverage purposes may be used only in the arts, sciences, and trades where the circumstances are such that there can be no probability that the spirits will be sold or used for beverage purposes or in the manufacture or production of any article intended for use as a beverage. The use for other than beverage purposes would include the manufacture of bona fide United States Pharmacopœia or National Formulary medicinal, culinary, and flavoring extracts, as well as cosmetics and toilet preparations, including bay rum, perfumery and toilet waters, extract of witch hazel and listerine, and would include proprietary medicines for which special tax is not required as rectifier from the producer, or special tax as wholesale or retail liquor dealer from the vendor. Manufacturers of so-called proprietary medicines listed in T. D. 2222 or subsequent decisions of similar import, as requiring special tax for their manufacture or sale, will not be entitled to use so-called nonbeverage alcohol. Spirits of a potable proof which were entered into warehouse and marked and branded as whiskey, rum, gin, brandy, etc., will be presumed to be for use for beverage purposes when withdrawn or sold.

All sales are presumably for beverage purposes when made to a retail dealer in alcoholic beverages, and permits will be withheld from such dealer. Pharmacists who are holders of special tax stamps as dealers will be entitled to use or sell alcohol for other than beverage purposes, but they will be required to obtain permit, give bond, and make application as herein prescribed. Pharmacists who are not qualified as retail liquor dealers may procure nonbeverage spirits on the same terms, but must dispense the same only on prescription of a physician or veterinarian duly authorized to practice under Federal or State laws, and only when denatured in conformity with T. D. 2496. The compounding in such case must not be in advance of the receipt by the pharmacist of the prescription. This requirement does not extend to spirits to be used in compounding regular prescriptions for internal use where the spirits are otherwise so medicated as to render them unfit for use as beverages.

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MALT AND VINOUS LIQUORS.

The regulations of this office relative to the manufacture and sale of malt and vinous liquors will be modified later if necessary to make them conform to the act of October 3, 1917, or if required by action of the President hereafter limiting, regulating, or prohibiting the use of foods, fruits, food materials, or feeds in the production of such liquors for beverage purposes, or the reduction of the alcoholic content thereof.

COMMANDEERING SPIRITS FOR REDISTILLATION.

No order as to commandeering distilled spirits in bond or in stock at the date of the approval of the food-control act (Aug. 10, 1917), for redistillation under section 16 of such act has been issued by the President.

WHEN ACT EXPIRES.

Section 24 of the food-control act states that its provisions shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact and date of such termination shall be ascertained and proclaimed by the President.

PENALTIES FOR VIOLATION OF LAW AND REGULATIONS.

Storekeeper-gaugers, storekeeper-gaugers assigned as gaugers, and deputy collectors will report to their immediate superiors and revenue agents and collectors will report to the Commissioner of Internal Revenue violations of the law and regulations.

Any violation of these regulations will subject the offender to the penalty provided by the statute (act of Aug. 10, 1917), to wit, a fine not exceeding $5,000, or imprisonment for not more than two years, or both, and to the pains and penalties denounced by statute for violation of the internal-revenue laws, as well as to liability on his bond.

Any violation of law or regulations which is a violation of the act of August 10, 1917, only, can not be made the subject of compromise by the Commissioner of Internal Revenue, under section 3229, Revised Statutes, which section is applicable to offenses arising under the internal-revenue laws only.

Any instructions issued prior to this date which conflict in any particular with the above are modified accordingly.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2560.)

Distilled spirits.

Various changes in regulations relating to the marking, branding, and stamping of distilled spirits.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1917.

To collectors of internal revenue, rectifiers, and others interested:

Section 304 of the new revenue measure provides, among other things, that—

All distilled spirits taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whiskey and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

Hereafter, therefore, all products of rectification from molasses spirits or spirits other than grain at rectifying houses will be marked and branded in the same manner as spirits derived from grain. All regulations in conflict herewith are accordingly revoked.

In Mim. 1613, dated September 12, 1917, the following instruction occurs in regard to the collection of the 15-cent tax on rectified spirits:

The tax is to be computed on the proof gallons, which include two decimal places and which should be written in the body of the stamp by the officer issuing same.

This instruction is hereby modified so as to read as follows:

The tax is to be computed on the proof gallons, but the second decimal place is to be disregarded following the practice authorized in tax-paying spirits at distilleries, and the proof gallons will be written in the body of the stamp by the officer issuing same.

Section 305 of said measure provides as follows:

That hereafter collectors of internal revenue shall not furnish wholesale liquor dealers' stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, transfer brandy * * * and export fermented liquor stamps.

Collectors will decline to furnish wholesale liquor dealers' stamps in lieu of or in exchange for stamps for rectified spirits, unless the package covered by the stamp for rectified spirits is to be broken into smaller packages. Packages properly protected by stamps for rectified spirits must not be changed into wholesale liquor dealers'

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packages except where subdivision of the contents is absolutely necessary for commercial reasons. This will make it necessary for bottlers of rectified spirits (unless they are willing to subdivide the original rectifier's package) to bottle directly from the package covered by stamps for rectified spirits, which may be of large capacity, not exceeding, however, 500 gallons, and which may be covered by more than one stamp, if necessary, to denote the entire quantity.

While the present edition of stamps is being used it will be necessary for rectifiers to draw their product into packages of sufficient size so that the contents will amount to not less than 5 proof gallons, which is the least quantity that can be covered by the current edition of stamps. Where packages of rectified spirits contain between 5 and 10 gallons, it will be necessary for the rectifier, in applying for tax-paid stamps, to adjust the wantage so that the tenths of a gallon will be less than 5, inasmuch as the figures on the right side of the coupons do not run higher than the figure 4.

Under the section above quoted the use of distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, and transfer brandy stamps is hereby discontinued, such discontinuance to be effective on and after November 1, 1917.

In lieu of the warehouse stamps heretofore required on the heads of packages of distilled spirits when entered into warehouse, the gauging officer who performs the entry gauge will, without the presence of any other officer, affix his canceling stencil in the same relative position as heretofore. No number of a distillery warehouse stamp will be marked on the head of the package, but all other required marks and brands will be placed thereon as heretofore. Like practice will obtain in reference to special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer and transfer, brandy stamps—that is to say, the stamps will be omitted from the head and all reference thereto will be omitted from the marks, but in lieu of the stamp the canceling stencil of the gauging officer will be applied to the head as above required.

Inasmuch as the discontinuance of export stamps for fermented liquors would affect the present method of accounting for export fermented liquors, it is not deemed expedient for the present to require the discontinuance of the use of such stamps.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2561.)

Corporation income tax.

The time for making returns pursuant to the requirements of Titles I and II of the act of October 3, 1917, in the case of corporations whose income-tax returns have been made or shall be made upon the basis of a fiscal year ending during the calendar year 1917, is extended to January 1, 1918.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 16, 1917.

To collectors of internal revenue:

The act of October 3, 1917, imposes upon the net income of every corporation, joint-stock company or association, and every insurance company a war income tax of 4 per cent and a war excess-profits tax at certain graduated rates, which taxes are in addition to the tax imposed by Title I of the act of September 8, 1916, as amended.

The first-named act is effective as of January 1, 1917, and applies to all corporations making returns on the basis of a fiscal year ending during the calendar year 1917, as well as to corporations making returns on the basis of a calendar year. It will be necessary for all corporations liable to these additional taxes and which have made, or which shall hereafter make, returns for a fiscal year ending in 1917 to make supplemental returns for the purpose of the excess profits tax. This requirement will apply to all corporations which may have heretofore made excess profits tax returns for the 1917 fiscal year pursuant to the requirements of Title II of the act of March 3, 1917.

Because of the desirability to have all returns made upon a prescribed form and in accordance with approved regulations, and because of the fact that it will be impossible for several weeks to put into the hands of such corporations the blank forms and instructions prescribed by this department for the use of such corporations in making excess-profits tax returns, the time within which such returns may be filed in the case of those corporations whose returns are due to be filed on or before January 1, 1918, is hereby extended to that date. This extension is made pursuant to the proviso in subparagraph (c) of section 14 of Title I of the act of September 8, 1916, and applies also to those corporation income-tax returns due to be filed on or before January 1, 1918, the correct preparation of which depends upon the excess-profits tax returns.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

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(T. D. 2562).

Distilled spirits.

Spirits in warehouse not exceeding 30 days not to be regauged upon withdrawal.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1917.

To collectors of internal revenue and others concerned:

Section 302 of the act approved October 3, 1917, provides that under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, distilled spirits may be withdrawn from distillery warehouse on the original gauge where the same have remained in such warehouse for a period not exceeding 30 days from the date of deposit.

You are directed to advise all distillers and gauging officers in your district that for the present no regauge will be made upon withdrawal of packages of distilled spirits from distillery warehouses when the same have not been in warehouse more than 30 days.

When a gauging officer notes any circumstance indicating that a package of spirits has been tampered with, or when he has reasons to believe that the package contains more spirits than is shown by the original gauge, or materially less spirits, or the distiller asks for a regauge, a careful regauge will be made by him of such packages before withdrawal.

In the event a regauge is made upon withdrawal of any package or packages which have remained in warehouse for a period not exceeding 30 days from the date of deposit, the gauging officer will note in Form 59 the reason for such regauge.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:

L. S. ROWE,
Acting Secretary of the Treasury.

(T. D. 2563.)

Soldiers' and sailors' insurance.

Tax imposed by section 504 of act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War-Risk Insurance Bureau.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 23, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Tax imposed by section 504 of act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War-Risk Insurance Bureau.

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Section 505 of the act of October 3, 1917, expressly provided that the tax imposed by section 504 of such act upon life and casualty insurance shall be returned and paid by "every person, corporation, partnership, or association issuing policies of insurance upon the issuance of which a tax is imposed by section 504."

The act clearly contemplates that the tax shall be paid by the insurer and not by the insured.

Not only is it impossible in the absence of express provision to the contrary to infer that the United States intended to tax itself, but section 505 obviously limits the application of the tax to persons, corporations, partnerships, and associations, in none of which classes is the United States included.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
L. S. ROWE,
Acting Secretary of the Treasury.

(T. D. 2564.)

Fermented malt liquors.

Use as distilling material at a contiguous industrial distillery for production of alcohol for denaturation, the residue containing less than one-half per cent alcohol to be available for manufacture of a "soft" drink.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1917.

To collectors of internal revenue, brewers, and others concerned:

Section 308 of the new revenue measure provides—

That from and after the passage of this act taxable fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial distillery of either class established under the act of October 3, 1913, to be used as distilling material, and the residue from such distillation containing less than one-half of 1 per cent of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner of Internal Revenue shall deem proper; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue.

Pursuant to the section above quoted, the following regulations are hereby promulgated:

Hereafter beer, ale, porter, or other fermented malt liquor may be conveyed by pipe line without tax payment from the brewery prem-

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ises where produced to a contiguous industrial distillery of either class established under the act of October 3, 1913, there to be used as distilling material.

The premises used as a brewery and the premises used as an industrial distillery must be separate and distinct, for which the requisite notices and bonds shall have been given.

If the distillery is in a portion of the building in which the brewery is situated or in a separate building immediately adjoining the brewery building, there must be a complete separation by substantial unbroken partitions between the same from cellar to roof, on the lines of the premises on all floors, with the exception only that necessary openings will be permissible to allow the conveyance of distilling material, water, and carbon dioxide gas by pipes, and to permit the use of the same heat, light, and power plants in the conduct of both industries. Necessary openings will also be permitted in such partitions for the passage of pipes for the return of the residue after distillation for further manipulation by cooling, flavoring, carbonating, settling, and filtering on the brewery premises, if desired by the brewer. These processes may also be carried on on the distillery premises or elsewhere.

Necessary measuring cisterns, with a 24-hour capacity for each, must be provided, either in the brewery or distillery, for the determination of the quantity of taxable material transferred, that records may be made thereof at the brewery and at the distillery, and such cisterns must be constructed and protected in the same manner as now prescribed for measuring cisterns pertaining to brewery pipe lines. These cisterns, of which there must be not less than two, will also be used as charge tanks for the distillery, to enable the collector to make survey as prescribed in supplement No. 2 to regulations No. 30.

The industrial distillery must be constructed in the manner prescribed by the act of October 3, 1913, and supplement No. 2 to regulations No. 30. All alcohol produced at such a distillery must be denatured on the distillery premises where produced. Vacuum stills may be used in lieu of the more ordinary types, if desired.

The residue from such distilleries containing less than one-half of 1 per cent of alcohol by volume, which is to be used in making nontaxable beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or on the brewery premises, or transferred from the distillery premises to other and separate premises for bottling or otherwise by means of unstamped packages unlike those ordinarily used for containing fermented liquor, or, if like packages are used, the same to be equipped in the manner required by T. D. 2410 in cases where fermented liquor packages are used for containing nontaxable beverages re-

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moved from brewery premises; that is to say, both heads to be equipped with a substantial metal plate, securely and permanently attached thereto and painted in a solid color with oil and lead with lettering in a contrasting color of the same materials conspicuously placed thereon, reading as follows: "Nontaxable; less than half per cent alcohol"; the word "nontaxable" to be not less than 1½ inches in height and of proportionate width; the remaining words to be not less than one-half inch in height and of proportionate width; the hoops of the packages to be painted white in oil and lead. Such residue may also be transferred to other premises for bottling or otherwise by way of a separate pipe line, which may, however, be connected, if desired, on the bottling premises with a tank or tanks set aside for that purpose exclusively or with a filling machine or machines commonly used for bottling fermented liquors received from brewery premises through an authorized pipe line. Any such residue removed to the brewery premises for completion of the process must be kept separate and distinct from the taxable product, and if the same apparatus is to be used for completing the process it must be used at separate and distinct times for the two products. Pipes for conveying such residue of less than half of 1 per cent of alcohol by volume passing over the brewery premises must be open to inspection throughout their entire lengths.

The taxable fermented liquors conveyed as herein permitted will be reported as produced by the brewer and so entered on his record (Form 104) and return (Form 18), forming a part of the general product of the brewery.

Credit will be taken on record (Form 104) and return (Form 18) for the quantity of liquor removed as distilling material, the same not to be subject to beer tax. At the distillery the material received from the brewery for distillation will be taken up on record book 606, which must be kept for that purpose. (See last revision of said form.) An abstract thereof will be required monthly to be sent to the collector's office.

The necessary supervision over the removal of the taxable fermented liquor from the brewery to the industrial distillery and the supervision over the operation of the distillery and the denaturation of the product will be exercised by the pipe-line deputy where one is on duty and can perform such service or in cases where there is no pipe-line deputy or such deputy is unable to perform all the duties necessary to the proper supervision, a storekeeper-gauger will be assigned in the usual manner to the distillery, with compensation not less than $3 nor more than $4 per day. All regulations inconsistent herewith are accordingly modified or revoked.

Any reference herein to a "nontaxable" product relates only to the exemption from tax on fermented malt liquors and is not to be taken

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as exempting the article from any tax imposed on so-called "soft" drinks by the act of October 3, 1917, or any subsequent law.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2565.)

Distilled spirits.

Recovery of spirits from empty spirit packages in central distilling and denaturing plants of an industrial character.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Hereafter at central distilling and denaturing plants established under the act of October 3, 1913, and regulations No. 30 and supplement No. 2 made in pursuance thereof, distilled spirits may be extracted from empty spirit packages by steaming, hot water, or other processes on such premises, the spirits thus recovered to be used as distilling material in said distillery constructed in strict conformity with the law and regulations named under the supervision of the Government officer.

A distillery of this character must be of such capacity that not less than 1,000 gallons of proof spirits may be produced during one day, and the distilling apparatus must be such that the proof of the spirits may be raised to not less than 180°; all spirits thus recovered and produced to be denatured on the distillery premises, as provided in the regulations named. At distilleries, therefore, where spirits are to be thus recovered for denaturation no extraction will be permitted until a sufficient accumulation of barrels has been made to comply with these regulations, and collectors will place on duty at such distilleries a storekeeper gauger to supervise the extraction and see that all spirits thus extracted or recovered are properly distilled and denatured on the distillery premises. The compensation of the officer will be not less than $3 nor more than $4 per day. Attention is called to the fact that regulations No. 30 are in process of revision and supplement No. 2 will be embodied therein. To enable the distiller to use special denaturants it will be necessary to qualify as a central distilling and denaturing plant, provided with the requisite distilling apparatus and storage room for alcohol, in conformity with supplement No. 2, and to obtain express permission for the use of

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special denaturants as provided by said supplement. Two bonds will be required on Forms No. 614 and 671. The bond on Form 671 is technically necessary to enable the distiller to use special denaturants and need be in a nominal penal sum only, but of not less than $1,000.

Very special attention is called to the provisions of regulation supplement No. 2, which require the installation of charge tanks in industrial distilleries to enable the collector or his deputy to make survey of the distillery. Inasmuch as the spirits extracted from whisky barrels will be in potable condition at central distilling and denaturing plants where such recovery will be permissible under this Treasury decision, the distiller will install at least two such charge tanks or measuring cisterns, which must be of metal with suitable covers. The cover as well as the outlet valve or any other opening affording access to the spirits must be provided with attachments for Government locks. All spirits extracted from the whisky barrels will be immediately deposited in one or the other of such storage tanks, and the officer under assignment will affix all necessary locks, so there may be no access to the spirits. The spirits must be so deposited in the storage tanks as to admit of the use of the tanks for the purpose intended, namely, as measuring cisterns for making surveys.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved.
OSCAR T. CROSBY,
Acting Secretary of the Treasury.

(T. D. 2566.)

Distilled spirits.

Various instructions applicable to cases arising under the revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1917.

To collectors of internal revenue and others concerned:

Attention is called to the fact that under section 304, act of October 3, 1917, neither a rectifier nor wholesale or retail liquor dealer nor any other person, firm, or corporation is permitted to reduce in proof or increase in volume in any quantity by the addition of water or other substance rectified spirits on which the 15-cent tax has been paid. This does not apply to reduction of proof by retailers made at the time of sale, but such reduction may not be made by retailers in quantity in advance of the sale of the drinks.

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A wholesale liquor dealer is permitted on making change of package of a distiller's original package or of a wholesale liquor dealer's package containing other than rectified spirits tax paid at the 15-cent rate by the rectifier to reduce the proof by the addition of water only, making necessary changes in the marks, brands, and stamps pursuant to application on Form 92.

A retail liquor dealer is permitted to reduce in proof by the addition of water only spirits drawn from a distiller's original package or a wholesale liquor dealer's package containing other than rectified spirits tax paid at the 15-cent rate by the rectifier, provided the resulting quantity is less than 5 wine gallons.

No change has been made in the regulations relating to the reduction of proof in the distiller's original package on the distiller's premises, at the distiller's free warehouse, or on the premises of a wholesale liquor dealer.

Where a rectifier desires to continue the use of his bottling tanks which heretofore have been placed under wholesale liquor dealer's stamps for that purpose, he may, if the capacity has been accurately determined by actual measurement or graduated glass gauges, withdraw spirits from the 27 B packages directly to such bottling tanks and place a sufficient number of stamps for rectified spirits on such bottling tanks to pay the tax on the contents at the 15-cent rate. If a bottling tank is to be completely filled each time and the contents have been accurately ascertained a graduated glass gauge would appear to be unnecessary, but tax must be paid on the full capacity each time the tank is used. When the contents of such a bottling tank have been withdrawn into bottles, the stamps used in tax payment must be completely effaced and obliterated and new ones must be affixed in tax payment every time a tank is used or filled.

The instructions in Mim. 1646 are regarded as permitting this modification as to the use of bottling tanks as packages for containing the product of rectification from which to draw for bottling purposes only at rectifying houses.

Attention is again called to Mim. 1619 of September 19, 1917, which provides that the 15-cent tax is due upon all rectified spirits in possession of the rectifier who rectified the same title to which has not passed to another person by bona fide sale and removal from the rectifier's premises before October 4, 1917, regardless of whether the same is charged by the rectifier to himself for wholesale or retail on book 52. The spirits subject to this 15-cent tax must be inventoried and returned separately, and tax is immediately payable, as it is in no sense a so-called floor tax, payment of which may be deferred by giving bond. This tax is applicable to the rectified spirits still in possession on October 4, 1917, of the rectifier who rectified the same whether in bottles, cased bottles, or packages bearing marks, brands, and stamps or retail packages not bearing marks, brands, and stamps

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All distilled spirits in possession of a manufacturing chemist, pharmacist, or any other person, firm, or corporation held for sale, although not for sale as distilled spirits on October 4, 1917, are held to be subject to the additional floor tax at $1.10 or $2.10 per proof gallon, as the case may be. Distilled spirits in the possession of manufacturers on October 4, 1917, which, in the legitimate processes of manufacture, had been rendered unfit for use as beverages are not subject to the additional floor tax, but the manufacturing processes must have been bona fide and not for the mere purpose of evasion.

Nonbeverage distilled spirits taxable at the rate of $2.20 per proof gallon may be used by manufacturers of flavoring extracts where such extracts are unfit for use as a beverage, and such extracts may in turn be used in manufacturing beverages.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2567.)

Distilled spirits.

Extracts may be made from nonbeverage alcohol.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 30, 1917.

To collectors of internal revenue and others concerned:

Alcohol tax paid at the rate of $2.20 per gallon, whether produced from materials fermented before or after September 9, 1917, may be used in the manufacture of bona fide flavoring extracts which themselves are not fit for beverage purposes. Such flavoring extracts may be subsequently used for flavoring beverages whether alcoholic or not.

Any instructions to the contrary are hereby rescinded.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
L. S. ROWE,
Acting Secretary of the Treasury.

(T. D. 2568.)

Moving-picture films.

Tax on positive moving-picture films to be paid only once "when first sold or leased."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 30, 1917.

Title VI, section 600, of the act of October 3, 1917, imposes "a tax equivalent to one-half of 1 cent per linear foot" "upon all posi-

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tive moving-picture films (containing a picture ready for projection) sold or leased by the manufacturer, producer, or importer."

The tax upon the manufacturers of automobiles, musical instruments, sporting goods, etc., imposed by the same title, has to be paid but once, and it is logical to assume that Congress intended likewise in the case of moving-picture films. It also appears that a different interpretation of the section in question would impose greater burden than could have been intended.

The language of the subdivisions imposing the tax upon the other articles mentioned differs from that concerning films in that the tax is imposed upon the articles "sold by the manufacturer, producer, or importer." However, the framers of the act recognized that moving-picture films as a rule are not sold, but are merely leased or rented to exhibitors, and it was evidently in view of such practice that the language of the paragraph relating to moving-picture films was made to read "sold or leased," instead of merely "sold."

Accordingly, the words "sold or leased," as they appear in this subdivision, are construed to mean when first sold or leased, requiring the payment of the tax only once.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
L. S. ROWE,
Acting Secretary of the Treasury.

(T. D. 2569.)

Tax on tobacco, cigars, cigarettes, and snuff.

Regulations concerning taxes on tobacco, snuff, cigars, and cigarettes removed from factory or customhouse on and after October 4, 1917, subject to half additional tax and on and after November 2, 1917, subject to full additional tax imposed by the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 17, 1917.

To collectors of internal revenue:

The sections of the act approved October 3, 1917, imposing additional taxes on cigars, cigarettes, tobacco, and snuff removed from factory or customhouse, and providing new sizes of packages for cigarettes and small cigars, tobacco, and snuff are as follows:

SEC. 400. That upon cigars and cigarettes, which shall be manufactured and sold, or removed for consumption or sale, there shall be levied and collected, in addition to the taxes now imposed by existing law, the following taxes, to be paid by the manufacturer or importer thereof: (*a*) On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than 3 pounds per thousand, 25 cents

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per thousand; (*b*) on cigars made of tobacco, or any substitute therefor, and weighing more than 3 pounds per thousand, if manufactured or imported to retail at 4 cents or more each, and not more than 7 cents each, $1 per thousand; (*c*) if manufactured or imported to retail at more than 7 cents each and not more than 15 cents each, $3 per thousand; (*d*) if manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, $5 per thousand; (*e*) if manufactured or imported to retail at more than 20 cents each, $7 per thousand: *Provided*, That the word "retail" as used in this section shall mean the ordinary retail price of a single cigar, and that the Commissioner of Internal Revenue may, by regulation, require the manufacturer or importer to affix to each box or container a conspicuous label indicating by letter the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on said box or container; (*f*) on cigarettes made of tobacco, or any substitute therefor, made in or imported into the United States, and weighing not more than 3 pounds per thousand, 80 cents per thousand; weighing more than 3 pounds per thousand, $1.20 per thousand.

Every manufacturer of cigarettes (including small cigars weighing not more than 3 pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or use, in packages or parcels containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80, or 100 cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or use under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

SEC. 401. That upon all tobacco and snuff hereafter manufactured and sold, or removed for consumption or use, there shall be levied and collected, in addition to the tax now imposed by law upon such articles, a tax of 5 cents per pound, to be levied, collected, and paid under the provisions of existing law.

In addition to the packages provided for under existing law manufactured tobacco and snuff may be put up and prepared by the manufacturer for sale or consumption, in packages of the following description: Packages containing one-eighth, three-eighths, five-eighths, seven-eighths, one and one-eighth, one and three-eighths, one and five-eighths, one and seven-eighths, and five ounces.

SEC. 402. That sections four hundred, four hundred and one, and four hundred and four shall take effect thirty days after the passage of this act: *Provided*, That after the passage of this act and before the expiration of the aforesaid thirty days cigarettes and manufactured tobacco and snuff may be put up in the packages now provided for by law or in the packages provided for in sections four hundred and four hundred and one.

SEC. 403. That there shall also be levied and collected * * * upon all manufactured tobacco, snuff, cigars, or cigarettes removed from factory or customhouse after the passage of this act but prior to the time when the tax imposed by section four hundred or section four hundred and one upon such articles takes effect, an additional tax equal to one-half the tax imposed by such sections upon such articles.

Section 1006 provides for continued use of stamps on hand, to be sold and accounted for at the new rates of tax; also that assessment shall be made against manufacturers having such stamps on hand on the day this act takes effect for the difference between the value of same at the old and new rates, as follows:

That where the rate of tax imposed by this act, payable by stamps, is an increase over previously existing rates, stamps on hand in the collectors' offices and in the

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Bureau of Internal Revenue may continue to be used until the supply on hand is exhausted, but shall be sold and accounted for at the rates provided by this act, and assessment shall be made against manufacturers and other taxpayers having such stamps on hand on the day this act takes effect for the difference between the amount paid for such stamps and the tax due at the rates provided by this act.

Graduated taxes on cigars weighing more than 3 pounds per thousand, the amount of tax to be paid being graded, according to the retail price of a single cigar, are imposed by this act. On all manufactured tobacco, snuff, cigars, or cigarettes removed from factory or customhouse from October 4, 1917, to November 1, 1917, inclusive, there shall be levied and collected an additional tax equal to one-half the tax imposed by this act, the full additional taxes taking effect on and after November 2, 1917.

RATES OF TAX ON CIGARS, CIGARETTES, TOBACCO, AND SNUFF.

Taxes are imposed on cigars and cigarettes, tobacco, and snuff removed from factory or customhouse for consumption or use on and after October 4, 1917, and November 2, 1917, according to their several classifications, as follows:

Class.	Rates of tax effective—	
	Oct. 4.	Nov. 2.
A. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at less than 4 cents each.....per thousand..	$3.00	$3.00
B. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at 4 cents or more and not more than 7 cents each.....per thousand..	3.50	4.00
C. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 7 cents each and not more than 15 cents each.....per thousand..	4.50	6.00
D. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 15 cents each and not more than 20 cents each.....per thousand..	5.50	8.00
E. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 20 cents each.....per thousand..	6.50	10.00
Cigars weighing not more than 3 pounds per 1,000 .....do....	.87½	1.00
Cigarettes weighing not more than 3 pounds per 1,000.....do....	1.65	2.05
Cigarettes weighing more than 3 pounds per 1,000 .....do....	4.20	4.80
Tobacco and snuff.....per pound..	.10½	.13

New series of internal revenue stamps are being prepared, and will be issued for the payment of above taxes.

DETERMINATION OF RATE OF TAX TO BE PAID ON, AND IN RESPECT TO LABEL TO BE AFFIXED TO, PACKAGES OF CIGARS WEIGHING MORE THAN 3 POUNDS PER THOUSAND.

In section 400 the rate of tax to be paid on cigars weighing more than 3 pounds per thousand is based upon the retail price of each cigar, and it is provided in said section that the word "retail" as used in this section shall mean the ordinary retail price of a single cigar. The ordinary retail price of a single cigar is held to be the price at which cigars are or would be sold singly. Where cigars are manufactured or imported to retail at two or three for a certain

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price the rate of tax payment is determined upon the retail price at which such cigars would be sold singly. In the case of cigars which are sold only by the box and never retailed in less quantities—i. e., where the box is the unit of sale—the rate of tax to be paid thereon is to be determined by the maximum value of a single cigar obtained by dividing the box price by the number of cigars packed therein where the same brand of cigars is put up in different size packages. In the case of imported cigars, the importer will be required to file an affidavit with the collector of customs setting forth the necessary information with reference to the retail price of the cigars when sold singly, and the importer will be held responsible for the proper tax payment of such cigars.

Under the provisions of section 400 every manufacturer or importer will be required to affix to each box or container of cigars weighing more than 3 pounds per thousand a conspicuous label indicating by letter the clause of said section under which the cigars therein contained have been tax paid, which must correspond with the tax-paid stamp on said box or container. Such label shall be not less than 1 inch long nor less than three-fourths of an inch wide, and shall be affixed to the front of the box or container and shall bear the following legend: "The contents of this box have been tax paid as cigars of Class —, as indicated by the internal-revenue stamp affixed."

In each such label the class shall be indicated by letter A, B, C, D, or E, corresponding with the appropriate class as provided for above under the head of "Rates of tax." This provision shall become effective on and after November 2, 1917.

INVENTORIES OF STAMPS BY MANUFACTURERS.

All attached and unattached stamps for the payment of tax on tobacco, snuff, cigars, and cigarettes held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before the commencement of business on said days are required to be inventoried and returns filed by the manufacturers for assessment of the additional tax due thereon, as provided in section 1006 of the act. Temporary inventory forms for the guidance of manufacturers in inventorying their stamps on the morning of October 4, 1917, were forwarded collectors with T. Mims. 1609 and 1610, dated September 10 and 11, 1917, with directions that upon receipt of telegraphic advice from the department as to rates, etc., on passage of the act they were to be completed and mailed by them to manufacturers. All stamps in transit from the collector or stamp deputy on the date inventory is required to be taken which were purchased at the old rates are required to be included in the inventory. Formal returns and inventories for assessment of additional tax on account of stamps on hand are to be made in duplicate under oath on Form 416A by

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manufacturers of tobacco and snuff and Form 416B by manufacturers of cigars and cigarettes and filed with the collector in the case of inventories of October 4, 1917, on or before November 2, 1917, and in the case of inventories of November 2, 1917, on or before December 1, 1917. These forms are in the hands of the Public Printer and will be forwarded to collectors for distribution at the earliest practicable date. Separate forms for the inventory of November 2, 1917, are provided.

Every manufacturer will be required to render a return and inventory on the forms mentioned, notwithstanding the manufacturer may have no stamps on hand on the dates mentioned. As to these additional taxes, payment must be made at the time of filing return, and can not be extended beyond dates given above. No bond for extending such payment will be accepted, as in the case of additional taxes imposed on stocks in the hands of dealers in tobacco; the law making no provision to that effect.

ENTRIES IN MANUFACTURERS' BOOKS AND MONTHLY RETURNS.

Each collector was furnished with the mimeographs above referred to; copies of instructions to manufacturers of tobacco and snuff and to manufacturers of cigars and cigarettes in regard to the entries to be made in their books and monthly returns when the new rates of tax become effective. Said instructions which were to be forwarded to the manufacturers in their respective districts, and which are similarly applicable and which should be observed by manufacturers again on November 2, 1917, when the full increased taxes become effective, follow:

To manufacturers of tobacco and snuff:

(1) In your revenue book under the head of "Removed tax paid" and "Stamp account" at the close of the last day under the old rate of tax, rule lines and immediately below, enter in red ink the totals of the several columns.

(2) In stamp account under the head of "Value of stamps purchased," and immediately beneath the total filled in under instructions in the preceding paragraph, enter the amount of additional tax shown to be due on account of stamps on hand on date specified, to agree with temporary inventory on accompanying mimeograph form which is required to be transcribed on printed blank Form 416A as soon as received by you.

(3) The stamps inventoried as on hand shall, when used, be reported in column headed "Stamps used" in stamp account, not as of the value of same when purchased, but as of the value of same at the new rate, hereinabove given.

(4) At the close of the month, under the head of "Removed tax paid" and "Value of stamps purchased" and "Value of stamps

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used" in stamp account, enter separately the quantities of tobacco removed tax paid; stamps purchased and stamps used, under the different rates of tax. Also fill in under the head of "Stamps purchased" in stamp account the amount of "additional tax paid," so describing such entry.

The following illustration is given as a guide to the manner in which such entries should be made in your revenue book 74:

	Removed tax paid.							Stamp account.	
	Plug.	Twist.	Fine cut.	Smoking.	Snuff.	Total.		Purchased.	Used.
.....	0	0	0	0	0	0	.....	0	0
.....	0	0	0	0	0	0	.....	0	0
.....	0	0	0	0	0	0	.....	0	0
Total, at 8 cents.....	0	0	0	0	0	0	.....	[1] 0	0
.....	0	0	0	0	0	0	.....	0	0
.....	0	0	0	0	0	0	.....	0	0
.....	0	0	0	0	0	0	.....	0	0
Total, at — cents.....	0	0	0	0	0	0	.....	0	0
Total, 8 cents.....	0	0	0	0	0	0	.....	[1] 0	0
Total, — cents.....	0	0	0	0	0	0	.....	0	0

[1] Additional tax.

(5) In your monthly return, under the head of "Removed tax paid" and "Stamp account," the totals for the month should be filled in to agree with the entries made in your revenue book under instructions in the preceding paragraph.

To manufacturers of cigars and cigarettes:

(1) In your revenue book, under the heads of "Removed tax paid," "Stamps purchased" and "Stamps used," at the close of the last day under the old rates of tax rule lines and enter immediately below, in red ink, the totals of the several columns.

(2) Under "Stamps purchased" in column subheaded "Value," and immediately beneath the total of said column therein entered as required in the preceding paragraph, enter the amounts of additional taxes shown to be due according to accompanying mimeographed temporary inventory for (and also according to printed blanks, Form 416B, on which same is to be transcribed as soon as received by you), on account of stamps on hand on the date specified.

(3) The stamps inventoried as on hand shall, when used, be reported in columns under the head of "Stamps used," not as of the value of same when purchased, but as of the value of same at the new rates hereinabove given.

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(4) At the close of the month, under the heads of "Removed tax paid," "Stamps purchased" and "Stamps used," enter separately the number of cigars (and cigarettes) removed tax paid, stamps purchased and stamps used under the different rates of tax. Also fill in in columns subheaded "Value" under "Stamps purchased" in stamp account, the amounts of additional tax paid, so describing each such entry.

The following illustration is given as a guide to the manner in which such entries should be made in your revenue book 73:

	Removed tax paid.	Stamps purchased.		Stamps used.	
		Denomination.	Value.	Denomination.	Value.
.....	0	0	0	0	0
.....	0	0	0	0	0
.....	0	0	0	0	0
Total, old rate.....	0	[1]0	0	0	0
.....	0	0	0	0	0
.....	0	0	0	0	0
.....	0	0	0	0	0
Total, new rate.....	0	0	0	0	0
Totals for month ..... Old rate.....	0	[1]0	0	0	0
Totals for month ..... New rate	0	0	0	0	0

[1] Additional tax paid.

(5) In your monthly return, under the heads of "Removed tax paid," "Stamps purchased," and "Stamps used," in stamp account, the totals for the month should be filled in to agree with the entries made in your revenue book under instructions in the preceding paragraph.

(6) Manufacturers of cigars weighing over 3 pounds per thousand, taxpaying same under two or more of Classes A, B, C, D, or E, at different tax rates, will, until new form of revenue book can be prescribed and printed, be required to indicate the class of cigars tax paid in heading of successive pages of their revenue book, the lowest tax class being entered on the same page as their material manufacture, removal for export and for personal consumption and experimental purposes is reported, the succeeding pages for the higher tax classes of cigars containing only entries under the heads of "Removed tax paid," "Stamps purchased," and "Stamps used." In regard to the monthly returns of such manufacturers it will be necessary, until new blanks can be printed and furnished, for the data contained on the successive pages of the revenue book to be

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entered on as many different sheets of Form 72, each indicating the class under which tax paid. The cigar account only needs be recapitulated, showing the removals at each different tax rate on the first sheet; that is, the sheet showing the cigars removed at the lowest tax rate.

(7) Unattached stamps of the value of $3 per thousand for cigars weighing more than 3 pounds per thousand which you may have on hand at the time the new rates of tax take effect and for which you have no further use on account of manufacturing only cigars of Classes B, C, D, or E, may be returned for redemption, provided said stamps have been purchased within a period of two years from date of making claim.

NEW SIZES OF PACKAGES FOR CIGARETTES, SMALL CIGARS, TOBACCO, AND SNUFF.

Section 400 provides that cigarettes and small cigars shall be put up in packages or parcels containing five, eight, ten, *twelve*, fifteen, *sixteen*, twenty, *twenty-four*, *forty*, fifty, *eighty*, or one hundred cigarettes each. (The numbers in italics indicate the new sizes of packages.) It is further provided that to each package or parcel there shall be affixed a suitable stamp denoting the tax thereon which shall be canceled prior to removal for sale or consumption under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Such stamps shall be affixed in such manner as to seal the package and shall be canceled by the manufacturer writing or imprinting on each stamp his factory number, the number of the district and State, and the date of cancellation to include the month and year. In the case of importer of small cigars or cigarettes the stamp shall be canceled by the owner or importer thereof by writing or imprinting upon the same his name and the date of cancellation to include the month and year.

Stamps for the new sizes of packages for manufactured tobacco and snuff provided for in section 401, of one-eighth, three-eighths, five-eighths, seven-eighths, one and one-eighth, one and three-eighths, one and five-eighths, one and seven-eighths, and five ounces, shall be affixed and canceled in the same manner as are other strip stamps for tobacco and snuff under the provisions of existing regulations No. 8, revised July 1, 1910, page 41.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
L. S. ROWE,
Acting Secretary of the Treasury.

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(T. D. 2570.)

Decisions under war-revenue act.

Synopsis of decisions on questions relating to the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 6, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

ADMISSIONS AND DUES.

Sections 700 and 701.—(1) Any organization which maintains headquarters for the purpose of affording its members the opportunity of informally congregating for social intercourse is a social club within the meaning of the law.

(2) *Collection of tax on admissions.*—(*a*) The tax on admissions is to be collected from the original vendor of the tickets on amount charged original vendee; (*b*) one who rents or leases a theater outright for one or more performances must make return and pay tax, but the proprietor of the theater is required to show in his returns the dates when and the parties to whom he rents or leases his place.

(3) *Subscription tickets.*—The tax is computed in the case of subscription tickets upon the amount actually paid therefor.

(4) *Opera boxes.*—In the case of an opera box under lease to a club, the tax shall be computed upon the basis of the price paid for the use of similar boxes by parties who pay for each performance severally. If there are no other boxes of similar size, the tax shall be computed by dividing the tax payable upon a smaller box by the number of seats in the smaller box and multiplying the tax per seat by the number of seats in the larger box. If there are no other boxes occupying a similar position, the tax should be based upon the price of single seats in the same part of the house.

(5) *Maximum charge.*—The exemption in cases where the maximum charge for admission is 5 cents does not apply to theaters where the amount charged for admission to any section or part thereof exceeds 5 cents.

(6) *College athletic associations.*—Admissions charged to university and college athletic contests are subject to tax.

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(7) *Club dues.*—Amounts paid prior to November 1, 1917, as club dues or admissions are not taxable under act of October 3, 1917, regardless of the period or periods covered thereby.

CIGARETTE TUBES.

Section 404.—Closed-end tubes used in the preparation of catarrh and asthma remedies are not taxable as "cigarette tubes."

DISTILLED SPIRITS.

Distilled spirits produced in the Virgin Islands and held for sale in the United States on October 3, 1917, are subject to the additional taxes imposed by the act of October 3, 1917, as in the case of domestic spirits.

ESTATE TAX.

Discount allowed on original payment of tax not allowed on payment of additional assessment.

EXCISE TAXES.

Sections 600, 602, and 603.—(1) The words "on the day this act is passed" used in section 602, are construed, in connection with section 1302, to mean the day the law becomes effective, that is, October 4, 1917.

(2) The word "wholesaler" as used in section 602 does not include a retailer who occasionally sells goods to other retailers at less than retail prices, unless it appears that an effort was made to solicit such business for profit.

(3) The "user" of a boat, as such term is used in section 603, means any person who purchases a vessel for his own use, as distinguished from one who buys as a dealer.

(4) The word "sold" as used in section 600 is construed to mean that a contract of sale has been entered into between vendor and vendee under the terms of which the article which is the subject of the contract becomes the property of the vendee.

(5) An itinerant manufacturer who moves from place to place and manufactures and vends an article subject to tax under the excise-tax law should make return and pay tax to the collector of the district where the sales are made.

(6) *Automobiles and motorcycles.*—(*a*) Automobiles and motorcycles sold by the manufacturer to the United States Government on contract, at contract prices, are taxable under the excise-tax law; (*b*) a chassis is held to be an automobile and taxable as such; (*c*) an automobile body is not taxable as an automobile when sold alone; when sold in combination with a chassis, the tax rests upon the completed article; (*d*) a usable or substantially complete automobile produced by assembling certain parts of trucks and cars, either new or secondhand, is subject to tax; (*e*) so-called used or secondhand automobiles are not subject to tax under section 600 when

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sold by the manufacturer, producer, or importer, nor to tax imposed by section 602 if held and intended for sale by a wholesaler on the morning of October 4, 1917; (*f*) the so-called side car to be attached to a motorcycle is not taxable unless sold in combination with a motorcycle, in which case the tax attaches to the completed article.

(7) *Dictaphones.*—Machines commercially and commonly known as "dictaphones" or "dictagraphs" and used for dictation purposes are not taxable as phonographs under the provisions of section 600.

INCOME TAX.

(1) *Interest on bonds received by legatee.*—A legatee is required to return as income the full amount of interest received by him on a bond, notwithstanding the fact that a part of the first coupon, payable after he had received it, had been added to the bond and included in the gross estate of the decedent, thereby becoming subject to the estate-tax law.

(2) *Payments received under accident compensation laws to be returned as income.*—Payments made to an injured employee by a corporation under the accident compensation laws of the several States constitute taxable income of the employee.

(3) *Undistributed net income—Section 1206.*—(*a*) The earnings of a corporation used to purchase preferred stock for cancellation are retained for employment in the reasonable requirements of the business, and are therefore not taxable; (*b*) Liberty loan bonds of the second series bearing interest at the rate of 4 per cent per annum, issued in exchange for the 3½ per cent Liberty loan bonds, are "obligations of the United States issued after September 1, 1917," and are not subject to tax; (*c*) current earnings invested in 3½ per cent Liberty loan bonds will not be subject to the tax upon undistributed net income of corporations if thus employed in the business or retained for employment in the reasonable requirements of the business.

BEVERAGES.

Soft drinks.—(1) Section 313, paragraph (a), does not impose a tax upon sirups or extracts intended for use by the maker for further manufacturing purposes.

(2) Is the use of flavoring extracts containing some alcohol in sirups which are to be used in the manufacture of soda water, etc., prohibited?

There is no provision against using flavoring extracts which contain some alcohol to flavor sirups that are to be used in manufacturing soft drinks.

(3) Are carbonated beverages which are mixed and sold at fountains subject to the tax imposed under subdivision (b), section 313, of the act of October 3, 1917?

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(*a*) There is no exemption in favor of products mixed and sold at fountains; (*b*) the manufacturer of soft drinks who purchases his carbonic-acid gas must pay 5 cents per pound upon the amount of gas he buys (sec. 315); (*c*) the manufacturer of soft drinks who makes his own gas must pay 1 cent per gallon upon all soft drinks sold (sec. 313 (b)); (*d*) the manufacturer of sirups or extracts must pay from 5 cents to 20 cents per gallon upon all sales of sirups or extracts which are intended for use in the manufacture of soft drinks (sec. 313 (a)).

(4) Carbonic-acid gas used in drawing beer from a container is not taxable under section 315.

(5) Extracts to be used for household purposes are not taxable.

(6) Where concentrates or extracts are sold to be further manufactured into flavoring extracts or sirups, the person completing the manufacture is subject to the tax. Where concentrates or extracts are sold to the bottler or the manufacturer of the soft drinks, the manufacturer of the concentrates or extracts is subject to the tax.

TRANSPORTATION.

Section 500.—(1) The words "from and after the first day of November, nineteen hundred and seventeen," include November 1, 1917.

(2) The term "United States" as used in section 500 in the phrase "from one point in the United States to another" means the States, Territories of Alaska and Hawaii, and the District of Columbia.

(3) The phrase "for less than 30 miles" means for less than 30 constructive miles in instances where two or more carriers are competing for transportation services.

(4) *Commutation, season, and party tickets.*—(*a*) "Commutation or season tickets" include all tickets issued to and intended for the use of the purchaser for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used; (*b*) commutation or season tickets do not include party tickets.

(5) *Mileage books.*—(*a*) A mileage book purchased on or after November 1, 1917, is subject to tax upon the full purchase price at the time of purchase; (*b*) where a mileage book purchased prior to November 1, 1917, is used on or after that date, the person presenting such book, whether the transportation fare to be used is more or less than 35 cents, must pay to the conductor or other agent the tax on such proportionate amount of the cost of the book as the unused mileage bears to the total mileage originally in the book.

(6) *Baggage.*—(*a*) Amount paid for transportation of excess baggage is held to be part and parcel of the amount paid for transportation of persons and is therefore subject to tax at a like rate; (*b*) no tax is imposed under the act of October 3, 1917, on amount paid for the storage of baggage.

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(7) *Through transportation.*—Where through transportation is paid in full, for example, from New York to Hongkong by way of Vancouver, British Columbia, the railway ticket from New York to Vancouver would be subject to tax under section 500, and the steamship ticket from Vancouver to Hongkong would be subject to tax imposed by paragraph (10) of Schedule A, act of October 3, 1917.

(8) *Shipments in transit on October 4, 1917.*—Shipments in transit on October 4, 1917, charged to a jobber's (wholesaler) account, but shipped direct to the retailer, are not subject to payment of the floor tax of 1½ per cent imposed by section 602, if the instrument of re-invoice had been issued and deposited in the mails prior to the morning of October 4. If that had been done the property was that of the retailer, and not subject to the tax. If it had not been done, it was the property of the jobber, and therefore subject to floor tax payable by the jobber.

(9) *Corpses.*—(*a*) Where a corpse is transported under tariffs requiring one first-class ticket therefor and one first-class ticket for an attendant, under the carrier's regulations, the tax is imposed as in the case of passenger transportation on both tickets; (*b*) where a corpse is transported by freight or express, the amount paid for such transportation would be subject to the tax imposed in the case of freight or express transportation.

(T. D 2571.)

Distilled spirits.

Entries required to be made in record 52 covering all distilled spirits received and disposed of by a wholesale liquor dealer.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

In view of present conditions brought about by recent legislation, this office considers it highly important that there be kept at all times an exact record of all distilled spirits in the hands of wholesale liquor dealers and rectifiers and, further, where a party is qualified as both wholesale and retail liquor dealer at the same premises that the wholesale and retail departments be kept, as far as practicable, separate and apart.

With a view to the attainment of such end, the conclusion has been reached that entries should be made in record 52 covering *all* distilled spirits received and disposed of by a wholesale liquor dealer in his capacity as such, regardless of the nature or size of the containers. Accordingly, where a wholesale liquor dealer receives distilled spirits on his premises, even where such spirits are contained in bottles or

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other unstamped retail packages, he should enter in record 52 A, as far as possible, the information required by section 3318, Revised Statutes, and when the spirits are disposed of by him corresponding entries should be made in record 52 B.

In cases where a wholesale liquor dealer desires to empty into bottles or other retail packages distilled spirits received by him, entry should be made in record 52 B to the effect that the same were disposed of to himself for bottling. After the spirits have been so bottled or placed in other retail containers, however, further entry should be made in record 52 A covering the receipt thereof "from bottling," and appropriate entries made in record 52 B when final disposition is made.

This should not be understood to in any way affect the privilege accorded wholesale liquor dealers, who are also retail liquor dealers, to charge off on record 52 B as disposed of to their retail departments spirits intended to be sold in retail quantities as retail liquor dealers. Spirits should not be so charged off to retail, however, unless they are to be actually disposed of at retail. Where, through error, a wholesale and retail liquor dealer charges off on record 52 B to his retail department spirits which are desired to be sold in wholesale quantities, further entries must be made in record 52 A and record 52 B, showing the receipt of such spirits "from retail" and the final disposition thereof, respectively.

In view of the inconveniences that would necessarily result from an immediate enforcement of the changes herein above set forth, the same will not become effective until December 1, 1917. Noncompliance therewith on and after such date should be reported as in violation of section 3318, Revised Statutes.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
JAMES H. MOYLE,
Acting Secretary of the Treasury.

(T. D. 2572.)

Drawback allowed under paragraph O of section 4 of the tariff act of October 3, 1913, on domestic alcohol used in manufacture of medicinal and toilet articles to include additional tax paid on such alcohol under the revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1917.

Messrs. ——— ———.

GENTLEMEN: Again referring to your letter of the 9th instant, calling attention to your letter addressed to the Secretary of the Treasury under date of July 10 last, in reference to rate of drawback to be

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allowed under existing laws on exported alcohol, you are informed that neither of your letters plainly indicates whether the alcohol in question is to be shipped in its natural condition or is to be used in the manufacture of "flavoring extracts, medicinal or toilet preparations for exportation," under the provisions of paragraph O of section 4 of the tariff act of October 3, 1913.

If the alcohol in question is exported in its natural condition, drawback thereon can be allowed only when the alcohol is exported in the distillers' original casks or packages, and in such cases the allowance of drawback is limited by section 3329, Revised Statutes, to 90 cents per proof gallon.

If, however, the alcohol is used in the manufacture of the above-named preparations for export, this office sees no reason why the drawback thereon should not include both tax of $1.10 per proof gallon and the additional tax paid thereon under the provisions of the act of October 3, 1917.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
J. H. MOYLE,
Acting Secretary of the Treasury.

(T. D. 2573.)[1]

War excise tax on jewelry—Act of October 3, 1917.

TREASURY DEPAREMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 1, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The following rulings relative to the taxation of jewelry have been made in this office:

(1) All articles which have been specifically classified as jewelry by the Board of General Appraisers shall be taxed as jewelry under the present act.

(2) All ornaments worn for personal adornment are classified as jewelry.

(3) All precious stones and pearls, both real and imitation, whether cut or uncut, which are set and ready to wear in condition sold, are classifiable as jewelry and subject to tax. Precious and imitation stones, cut but not set, and parts of jewelry, including mountings which require the addition of material or stones or other parts to become complete articles of jewelry, will be subject to tax when sold to the consumer. Pearls matched, drilled, and temporarily strung on silk thread, without clasps, will not be regarded as jewelry

[1] Supersedes T. D. 2553 of Oct. 26, 1917.

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when sold to dealers for further manufacture or completion, but will be regarded as jewelry when sold to a customer for personal use, whether with or without a clasp. The same will apply to loose, drilled pearls.

(4) Watches not used solely for utility purposes are considered as taxable within the meaning of section 600 of the war-revenue act. This will embrace watches worn for the purpose of adornment, such as all metal bracelets containing watches, or with watches attached thereto; all watches the outer cases of which are ornamented by the addition of precious or semiprecious stones or any ornamentation other than engraving or engine turning.

(5) As to the question of what is a retailer, it is held that a retailer who is not also a wholesaler is one who sells only to personal customers and does not solicit or seek to make sales to other dealers for resale. Any dealer who makes the sale of jewelry to other dealers for resale a substantial part of his business, or who solicits such business, will be regarded as a wholesale dealer.

(6) As to other specific articles, it is held that the following when made of precious metals or imitation of precious metals to be carried on the person shall be considered as jewelry: Dorean (powder) boxes, vanity boxes, stamp boxes, match boxes, cigarette cases, cigar cases, eyeglass cases, eyeglass chains, eyeglass holders, lorgnettes, lorgnons, card cases, vinaigrettes, handkerchief holders, garters, suspenders, emblem charms, emblem pins, emblem buttons, mesh bags, memorandum books, lip-salve cases, eyebrow pencils, cigar cutters, compasses, key chains, key rings, and like articles.

All rulings heretofore made inconsistent with the foregoing are hereby revoked.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2574.)

Liberty loan bonds as security for taxes.

Instructions regarding deposit of Liberty bonds or other collateral as security for payment of floor taxes imposed by the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1917.

To collectors of internal revenue:

Section 1002 of the act of Congress approved October 3, 1917, provides:

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Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Collectors are authorized by T. D. 2537 to accept, in lieu of surety bonds as security for the payment of floor taxes, Liberty bonds of the United States equivalent to the actual amount of the taxes due, and by T. D. 2557 to accept in certain cases a bond with personal surety supported by other satisfactory security.

In every case in which Liberty bonds or other collateral are deposited with the collector as security, the principal must execute a bond, the form of which shall be substantially as follows:

BOND.

(For additional taxes imposed by act of Congress approved Oct. 3, 1917, on certain articles held by dealers and jobbers.)

Know all men by these presents, that I, ——— ———, of ———, am held and firmly bound unto the United States of America in the sum of —— dollars ($——), lawful money of the United States, for the payment whereof I bind myself, my heirs, executors, administrators, and assigns, firmly by these presents.

Witness my hand and seal this —— day of ———, A. D. 191–.

Whereas the above bounden ——— is indebted to the United States in the sum of —— dollars ($——), being the ascertained amount of internal-revenue taxes due and payable under the act of Congress approved October 3, 1917, on certain articles owned and held by the said principal on the 4th day of October, 1917, and more particularly described in a return and inventory made by the said principal to the said collector of internal revenue for the —— collection district of ——— on or about the —— day of ———, A. D. 1917.

And whereas the said bounden ———, in order to the more fully to secure the United States in the payment of the aforementioned internal-revenue taxes hereby pledges as security therefor United States Government Liberty bonds in the sum of —— dollars ($——), which said bonds are represented by serial numbers —— ——, which bonds have this day been deposited with the collector of internal revenue for the —— collection district of ——— and his receipt taken therefor.

Now, therefore, the condition of the foregoing obligation is such that if the said principal shall well and truly pay or cause to be paid to the collector of internal revenue for the —— collection district of ——— the tax on said articles as shown by said inventory and return aforementioned within seven months from the date of said act, and shall likewise pay or cause to be paid to the said collector of internal revenue any additional tax, interest, and penalties on said articles or any like articles so held by the said principal, then this obligation to be void; otherwise this bond is to be forfeited and the said collateral security may be sold at public or private sale, with or without notice of such sale and without notice of any character to the principal, and the proceeds applied to the payment of the said internal-revenue taxes, interest, and penalties above mentioned, and the expenses of such sale, if any, and the residue, if any, paid to the said principal.

——— ———. [SEAL.]

Signed, sealed, and delivered in the presence of—

——— ———.

Examined and approved this —— day of ———, A. D. 1917.

——— ———,

Collector of Internal Revenue, —— *District of* ———.

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If the collateral deposited is other than Liberty bonds necessary substitutions in the blank form should be made.

Where collateral is deposited as security the collector should give to the depositor a receipt in substantially the following form:

Received on ———, of ——— ———, on ———, A. D. 191–, as security for the payment on or before May 3, 1918, of additional taxes imposed by the act of Congress approved October 3, 1917, upon articles or commodities previously tax paid, shown to be due by an inventory and return filed in the office of the collector of internal revenue for the ——— collection district of ——— on or about ——— A. D. 1917, the following articles: ——— ———, which articles are to be returned to the above mentioned ——— ——— upon the satisfaction of a bond executed to the United States ———, A. D. 1917, and partly secured by said articles.

——— ———.
Collector.

The taxing act does not state the time in which a bond as security for the payment of floor taxes shall be filed. In ordinary course the taxes will be duly assessed against the taxpayer and notice and demand for payment mailed by the collector to the taxpayer. No penalties accrue until 10 days after the date of the notice and demand for payment, and if a bond satisfactory to the collector is filed before the expiration of the 10 days the same should be accepted as security. If a bond is not filed until after 10 days from the date of the notice and demand for payment, a 5 per cent penalty will have accrued. A bond may be accepted after that date provided it is sufficient in amount to cover the tax and accrued penalties. Collectors should, however, use vigilance in the collection of the taxes and issue a distraint warrant wherever necessary.

If taxes secured by the filing of a bond are not paid within the time limited in the bond, the collector should endeavor to collect the same by distraint. The security pledged should not be sold except upon instructions from this office.

The penal sum of a surety or other bond must be not less than the amount of the tax due. If the tax due as shown by the return is less than $1,000 the penal sum of the bond may be less than that amount.

Liberty bonds or other collateral deposited as security and in the possession of the collector of internal revenue should be surrendered to the taxpayer as soon as the tax and interest have been paid. If the tax is paid in installments a proportionate amount of the collateral deposited may be surrendered in the discretion of the collector.

Regulations in conflict herewith are hereby revoked.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2575.)

Denatured alcohol.

Alcohol brought to the United States from Porto Rico may be removed free of tax for denaturation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 5, 1917.

To collectors of internal revenue and others concerned:

(1) Where alcohol of not less than 180° proof is brought to the United States from Porto Rico for denaturation, the same on arrival may be transferred to any central denaturing bonded warehouse free of tax upon the filing with the collector of internal revenue of the district in which such warehouse is located a bond in the form following.

(2) The bond in such cases will be given in duplicate by the proprietor of the warehouse, with sureties satisfactory to the collector, and in a penal sum of not less than triple the amount of tax on any and all alcohol so transferred and remaining an outstanding charge, and in no case less than $5,000. One copy of the bond will be retained by the collector and one copy with his approval indorsed thereon will be forwarded to the Commissioner of Internal Revenue.

BOND.

Denaturation of Porto Rico alcohol—Free of tax.

Know all men by these presents, that we ——— ———, of ———, as principal, and ——— ———, of ——— ———, as sureties, are held and firmly bound unto the United States in the full and just sum of —— thousand dollars, for the payment whereof we bind ourselves, our heirs, executors, administrators, successors, and assigns, firmly by these presents:

Witness our hands and seals this —— day of ———, 191–.

Whereas the above bounden principal intends to transfer to his (or their) central denaturing warehouse located at ———, in the —— collection district of ———, certain alcohol produced in the Island of Porto Rico and heretofore or which may be hereafter brought into the —— collection district of ——— for denaturation free of tax.

Now, therefore, the condition of this obligation is such that if the said principal shall fully and faithfully comply with all the requirements of law and regulations respecting the transportation, storage, denaturation, and removal of such alcohol, and shall perform all other acts and render such reports as may be required by said regulations; shall pay on demand the tax of three dollars and twenty cents on each and every proof gallon of alcohol removed and not so transported, denatured, and accounted for within the time and in the manner required by said regulations; and if the said principal shall, in addition to such tax, likewise pay all penalties imposed or fines incurred by him for a violation of any of the provisions of law or regulations relating to said alcohol, then this obligation to be void; otherwise to remain in full force and virtue.

Signed and sealed in the presence of—

——— ———. ——— ———. [SEAL.]
——— ———. ——— ———. [SEAL.]
——— ———. ——— ———. [SEAL.]
——— ———. ——— ———. [SEAL.]

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(4) Upon the execution and approval of the foregoing bond the principal therein named may make application from time to time for the transfer of alcohol as provided in the bond. The application in each such case will be made on part 1, Form 573, revised, modified to suit the circumstances; and the accompanying certificate, order, etc., parts 2, 3, 4, and 5, will be prepared as in the case of transfer of alcohol from distillery premises.

(5) All alcohol transferred to central denaturing warehouses under these regulations will, upon their arrival, be carefully inspected by the officers in charge and will be reported separately and in *red ink* on the monthly statement (Form 575).

Alcohol so received will be denatured and accounted for in the same manner as other alcohol received for like purpose.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2576.)

Distilled spirits.

Instructions relative to the sale and use of distilled spirits for other than beverage purposes under the food-control act of August 10, 1917, and the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

T. D. 2559 is hereby modified as follows:

Hereafter, pharmacists who hold permit and have given bond will be permitted to sell nonbeverage alcohol without a physician's prescription, to persons who do not hold permits and who have not given bonds under the provisions of T. D. 2559, in quantities not exceeding one pint, but not in advance of orders, provided they first medicate the same in accordance with any one of the formulas recited below:

(1) Carbolic acid 1 part, alcohol 99 parts.
(2) Formaldehyde 1 part, alcohol 250 parts.
(3) Bichloride of mercury 1 part, alcohol 2,000 parts.
(4) Bichloride of mercury 0.8 gram, hydrochloric acid 60 c. c., alcohol 640 c. c., water 300 c. c.
(5) Bichloride of mercury 1½ grains, hydrochloric acid 2 drams, alcohol 4 ounces.
(6) Formaldehyde 2 parts, glycerin 2 parts, alcohol 96 parts.
(7) Carbolic acid 1 dram, tannic acid 1 dram, alcohol 1 pint, water 1 pint.
(8) Alum ½ ounce, formaldehyde 2 drams, camphor 1 ounce, alcohol and water, each 1 pint.
(9) Lysol 1 part, alcohol 99 parts.
(10) Liquor Cresolis Comp. (U. S. P.), 10 c. c., alcohol 1,000 c. c.

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The container of such alcohol will bear a "Poison" label.

Any abuse of these privileges will, however, result in recall of the pharmacist's permit and its cancellation.

Permits will not be issued to retail liquor dealers, except pharmacists and such other retail dealers as do not sell beverage spirits.

It will be understood that a pharmacist is in no sense a denaturer of alcohol, nor are the agents prescribed above regarded as satisfactory for the denaturation of alcohol in bulk quantities. Persons permitted to denature alcohol in bulk quantities are proprietors of distilleries having denaturing bonded warehouses on their distillery premises, proprietors of central denaturing bonded warehouses, and proprietors of industrial distilleries established under the act of October 3, 1913. All persons purchasing nonbeverage alcohol for use in manufacturing processes must obtain permit, give required bond, and otherwise comply with the regulations pertaining to the sale and use of such alcohol, regardless of the quantities purchased.

In compliance with the regulations as to applications for permits, where the manufacturer desires to make United States Pharmacopœia or National Formulary products, the permit may be approved by the collector of internal revenue without submitting the matter to this office, and as to such products a statement of the names by classes, such as "tinctures," "extracts," etc., and that they conform to the standards above specified will be sufficient without any further description or statement of formula.

In the case of alcoholic medicinal compounds which are not in conformity with the United States Pharmacopœia or National Formulary, the manufacturer will file with the collector, when requesting a permit for the use of nonbeverage alcohol, the following data in duplicate: The name of the preparation, by whom manufactured, for whom manufactured in cases where same is not placed on the market by the manufacturer, the advertising matter distributed with the preparation, and the percentage of alcohol by volume contained in the finished product.

A sworn statement, in duplicate, must be furnished that the medicinal compound contains no more alcohol than is necessary for the purposes of solution or preservation; that it contains in each fluid ounce a dose as a whole or in compatible combination of one or more agents of recognized therapeutic value; that it contains no agents either chemically or physiologically incompatible with the active medicinal agents upon which the medicinal claims are based, and that it is not a beverage and is not to be sold or used as a beverage. The Commissioner of Internal Revenue reserves the right, when in doubt as to the nonbeverage character of the preparation, and the applicant accepts such reservation, to demand at any time the formula and process by which the article is manufactured. The

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collector immediately after issuing the permit will forward one copy of the data above specified to this office for filing in the Division of Chemistry, retaining one copy for his files.

Where the collector is in doubt as to whether or not the medicinal compound is a beverage, he will issue the permit and submit the entire matter to the Commissioner of Internal Revenue with a commercial package or packages of not less than 16 ounces of the product for determination.

Internal-revenue storekeeper-gaugers and storekeeper-gaugers assigned as gaugers will be guided by the act of August 10, 1917, and the regulations and rulings thereunder, and will not permit the use, in the production of beverage spirits, of any material held by T. D. 2559 to be foods, fruits, food materials, or feed.

The applicant for withdrawal or purchase, as the case may be, of nonbeverage spirits, will make out his application in triplicate as prescribed in the regulations named, filling in all of the necessary data within his knowledge. If he is unable to describe the spirits by serial number of package, wine gallons, proof, proof gallons, and taxable gallons, he may leave those spaces blank and may indicate on a separate sheet of paper the quantity of spirits he desires to withdraw or purchase. He will then send or deliver the application in triplicate to the vendor of the spirits, who will fill in the necessary data in the spaces provided, and note on all three copies that the goods have been delivered. One of the triplicates will be retained by the vendor, one will be returned by him to the purchaser immediately, and the other will be forwarded by him to the collector of internal revenue for the district in which the permit was issued. Under this practice, the approval of the collector in advance of the withdrawal or purchase of the spirits will not be required. Instead of making oath to the correctness of the statement on the form for application, the applicant will be required to sign the certificate in the prepared spaces, without making affidavit.

The requirement in T. D. 2559 that the applicant for a permit must file a bond with corporate surety is hereby modified to the extent of permitting acceptance for this purpose by the collector of a bond with two personal sureties who qualified on Form 33 and are approved by the collector of the district; also a bond with personal sureties, without justification by the sureties on Form 33, may be accepted on condition that any Government bond or bonds in an amount equal to the penal sum of the bond offered shall be deposited with the collector as collateral and duly assigned to the Commissioner of Internal Revenue.

Where the same person, firm, or corporation is operating a number of drug stores in the same city, the withdrawal or purchase for sale or use of alcohol for nonbeverage purposes at all of these stores may

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be covered by a single bond, permit, and serial number. The bond in such case must be in sufficient amount to cover the operations at all of the different stores, and the name and location of each store where sales are to be made must be stated in the appropriate spaces in the bond. The original permit will be posted at the main store, and a copy of the same must be posted at each of the other stores with a notation in the margin thereof setting forth the fact that the original is posted at the main store, giving the street address where the same is located.

Applications for withdrawal or purchase for use or sale for other than beverage purposes will be made by the person, firm, or corporation to whom the permit is issued, the entire quantity of spirits involved being accounted for in the appropriate blank spaces, and so certified.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2577.)

Synopsis of decisions on questions relating to the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 13, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

ADMISSIONS AND DUES—SECTIONS 700 TO 702.

(1) *College athletics.*—The tax imposed by section 700 applies to amounts charged for admission to college athletics and other entertainments, unless all the proceeds thereof are actually turned over to the college itself, or to some other religious, educational, or charitable institution, society, or organization.

(2) *Dues.*—No tax accrues on any dues paid prior to November 1, 1917. The tax accrues on all dues paid on and after that date.

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(3) *Zoological Park.*—No tax is payable upon amounts charged for admission to a zoological park maintained and operated solely for the benefit of the public.

BEVERAGES—SECTIONS 300 TO 315.

Carbonic-acid gas.—Carbonic-acid gas when shipped to a foreign country to be used in the manufacture of beverages is exempt from the provisions of the act.

CIGARS, TOBACCO, AND MANUFACTURES THEREOF—SECTIONS 400 TO 404.

Retail price of cigars not uniform.—Where the retail price of cigars is different in different parts of the country, the tax imposed by subdivisions (*b*), (*c*), (*d*), and (*e*) of section 400 is to be based on the retail price at which the cigars are retailed in the section of the country where the principal market for them is at the time of sale.

EXCISE TAXES—SECTIONS 600 TO 603.

(1) *Bottlers.*—A person who receives drugs or other goods in bulk, and bottles, labels, and otherwise prepares same in a final salable and marketable form, is held to be the manufacturer within the meaning of section 600.

2. *Chassis.*—Where a chassis is sold to a consumer or other person or concern who or which is not subject to the payment of the tax imposed by section 600, the tax attaches upon the sale; where a chassis is sold to another manufacturer, producer, or importer in this country, who or which is subject to the tax upon the sale of the completed machine, the tax attaches upon the sale of the completed machine by such manufacturer, producer, or importer.

3. *Dealers.*—Dealers in automobiles who sell both to users and subagents for resale are wholesalers within the meaning of section 602, and are liable to the floor tax imposed by said section.

4. *Proprietary medicines.*—Preparations made in accordance with formulas contained in the United States Pharmacopœa and National Formalary by pharmaceutical manufacturers and druggists having no special proprietary right to such formulas, and bearing printed labels giving directions as to use, when not held out or recommended by the manufacturers, vendors, or proprietors as proprietary preparations or as remedies or specifics for any disease or affection, are not taxable under paragraph (*h*) of section 500.

5. *Sale price.*—The tax imposed by section 600 is squarely on the manufacturer, producer, or importer. If the price of the article sold is increased to cover the tax, the tax is on the increased price, not on the original price.

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1. *Freight.*—(*a*) In all cases in which shippers have credit arrangements with carriers under which their goods are shipped prepaid but the freight charges are not actually paid until after November 1, 1917, the tax is not imposed on amounts paid for such transportation begun prior to November 1, 1917.

(*b*) If the consignees have credit arrangements with carriers under which they settle their freight bills on or before the 15th of the month, the tax is not imposed or charged on freight bills for the transportation of goods actually delivered prior to November 1, 1917.

(*c*) No tax is imposed upon amounts paid for transportation of goods by freight in any instance in which the property was actually delivered to the consignees prior to November 1, 1917, and by reason of the loss of the bill of lading, dispute as to the amount of charges, or other delay whereby the payment was not made at the time of delivery.

(*d*) No tax is imposed on the amount paid for transportation on a through bill of lading to or from Canada or Mexico or any foreign country. If, however, property is shipped by freight from a point in the United States to a seaport on one bill of lading and is then reconsigned for export, the tax is imposed on the amount paid for the transportation to the seaport.

(*e*) Goods which are imported into the United States and reconsigned at port of entry to a point in the United States are subject to the tax upon the amount paid for transportation from the port of entry to destination in the United States. If the property is consigned from a foreign port to a point within the United States without being reconsigned at the port of entry, the tax is not to be imposed.

(*f*) Tax on freight transportation became effective on November 1, 1917, and applies to all collect freight shipments delivered to consignee after that date.

(*g*) The exemption allowed in section 502 is held to apply only to payments for services which are made by the United States, a State, Territory, or the District of Columbia. The exemption does not apply to payments for services which are made by other persons.

(2) *Passenger*—(*a*) Where price of ticket for transportation of passengers includes charges for berth, stateroom, and meals which can not be segregated, a tax of only 8 per cent of the amount paid for the ticket is collectible.

(*b*) A through ticket purchased in Hongkong for Habana, Cuba, routed trans-Pacific steamer to San Francisco, rail lines thence to New Orleans, and steamship line thence to Habana, the ticket containing an order "Good for exchange in San Francisco for a railroad

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ticket from San Francisco to New Orleans, and in New Orleans for a steamship ticket from New Orleans to Habana," is subject to the tax imposed by subdivision (*c*) of section 500 on the amount paid for the transportation from San Francisco to New Orleans, and to the tax imposed by paragraph (10) of Schedule A, Title VIII, of the act of October 3, 1917, on amounts paid for transportation from New Orleans to Habana, Cuba.

(3) *Transportation.*—The definition of "transportation" in its relation to the business of common carriers contained in the interstate commerce act of June 29, 1906 (34 Stat. 584), is held to apply to that term as used in section 500 of the act of October 3, 1917, and is as follows:

* * * The term transportation shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage and handling of property transported; * * *.

(T. D. 2578.)

Bonds required of distillers.

Additional bonds required of distillers if bonds already furnished do not adequately protect the interests of the Government.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1917.

To collectors of internal revenue:

By reason of increased taxes imposed by the war-revenue act of October 3, 1917, upon the manufacture and sale of distilled spirits and fermented liquors, existing bonds furnished by distillers and others required to give bonds are in many cases inadequate. In all cases in which such existing bonds do not meet the requirements of the statute or adequately protect the interests of the Government, new bonds must be furnished.

Section 3260 R. S., as amended by section 1 of the act of May 28, 1880 (21 Stat., 145), requires that every person intending to commence or continue the business of a distiller shall execute a bond, and that—

Said bond shall be with at least two sureties, approved by the collector of the district, and for a penal sum not less than * * * the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days. But in no case shall this bond exceed the sum of one hundred thousand dollars.

If the penal sum of the bond already furnished by a distiller is not sufficient in amount to meet the requirements of existing law, which imposes a tax at the rate of $3.20 per gallon, a new bond must be furnished to meet these requirements.

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By section 3336, Revised Statutes, as amended by the act of April 29, 1886 (24 Stat., 15), every brewer, on filing notice of his intention to commence or continue business, is required to execute a bond to the United States, to be approved by the collector of the district—

* * * In a sum equal to three times the amount of the tax which, in the opinion of the collector, said brewer will be liable to pay during any one month, and conditioned that he shall pay or cause to be paid, as herein provided, the tax required by law on all beer, lager beer, ale, porter, and other fermented liquors made by or for him.

New bonds must be furnished by brewers where necessary to comply with the requirements of this section.

New bonds in a penal sum sufficient to cover liability to taxes due at the rate of $3.20 per gallon must be furnished in every case in which distilled spirits are stored in a warehouse in charge of a general storekeeper-gauger. If the distilled spirits are stored in a warehouse at which a storekeeper-gauger is in attendance on each business day and the warehousing bond covering the taxes due on the distilled spirits was given prior to October 3, 1917, a new bond will not at this time be required, provided the distiller's bond on Form 30 is in full force and effect and is in an amount to comply with the provisions of section 3260, Revised Statutes.

Under this decision new bonds will not be required in the case of "Distiller's warehousing bond" (Form 80), "Distiller's annual warehousing bond" (Form 359), and "Transportation and warehousing bonds" (Forms 235 and 351), provided the spirits for which the bonds have been given were entered in the warehouse prior to October 3, 1917, and provided further it appears that the interests of the Government are adequately protected by existing bonds. If under any existing bonds distilled spirits are entered into a warehouse subsequent to October 3, 1917, the bond must be in a sufficient penal sum to cover the tax at the rate of $3.20 per gallon. If spirits which were entered into a distillery warehouse or any other warehouse prior to October 3, 1917, have been or shall be subsequent to that date transported and warehoused in a general bonded warehouse, the bond covering such transportation and warehousing shall be in a penal sum sufficient to cover the tax at the present rate of $3.20 per gallon. A bond which, however, is for the warehousing of distilled spirits manufactured at the present time may be in a sufficient penal sum to cover the tax at the rate of $2.20 per gallon, since spirits can not be manufactured at the present time for beverage purposes.

If the penal sum of a "Manufacturer's bond for specially denatured alcohol" (Form 583 or Form 582 A) is in excess of the liability to tax at the rate of $3.20 per gallon, a new bond will not be required provided the recovery clause on the bond has been stricken out; if such clause has not been stricken out a new bond will be required.

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Bonds for the transportation and warehousing of distilled spirits subsequent to October 3, 1917, and all new bonds executed subsequent to said date must be written in a penal sum sufficient to cover the tax at the rate of tax per gallon imposed by the act of Congress approved October 3, 1917.

If heretofore new warehousing bonds have been given to comply with the requirements of the act of October 3, 1917, the same may be canceled if the bonds in force on October 3, 1917, are still in force and effect.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2579.)

Distilled spirits.

Tax on distilled spirits contained in vermuth, cordials, and other compounds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 5, 1917.

To collectors of internal revenue:

All vermuths, cordials, and other compounds made exclusively with distilled spirits are subject to the so-called floor tax of $2.10 additional on each proof gallon or fraction of a gallon of the full alcoholic content thereof. Where, however, such compounds are manufactured with mixtures of wine and spirits, the additional tax of $2.10 per proof gallon will be due only on the distilled spirits contained therein, and not on the spirits contained in the fermented wines used.

All such compounds in which distilled spirits exclusively have not been used, but which contain spirits produced by fermentation, and those produced by distillation, will be considered as having 15 per cent alcohol by volume produced by natural fermentation, and the additional tax of $2.10 per proof gallon will, therefore, be due only on the alcoholic content in excess of 15 per cent.

All genuine imported vermuths may be considered, for the purpose of collecting this tax as having a wine base, unless there is reason for believing otherwise. It follows that such domestic vermuths as are manufactured in the same manner as imported vermuths will be inventoried accordingly.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

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(T. D. 2580.)

Tax on shipments or packages by express under the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 7, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The question herein considered is as to whether or not under paragraph (b), section 500, war-tax act of October 3, 1917, newspapers or similar articles shipped by express shall be accounted for for taxing purposes in separate packages or in bulk shipments.

From the facts presented it appears that the method of transporting newspapers by express is to deliver to the express company in bulk, tied or fastened together, an entire shipment and to base and pay the express charges thereon without regard to inclosed subdivisions to be thrown off or delivered at way stations, that is to say, if 500 pounds of newspapers should be shipped on a single car at one time, to be distributed at 10 different stations, the package would be received as one shipment and the total express charge would be for the aggregate amounts of the 10 subdivisions, and not upon the basis of the 10 deliveries.

As this was a fact and a commercial condition at the time of the passage of the act, Congress is assumed, if the contrary does not otherwise appear in the law, to have enacted the taxing provision relative to express shipments in view of and to meet such existing commercial conditions and practice.

Paragraph (b) above referred to reads as follows:

A tax of 1 cent for each 20 cents, or fraction thereof, paid to any person, corporation, partnership or association, engaged in the business of transporting parcels or packages by express over regular routes, between fixed terminals, for the transportation of any package, parcel, or shipment by express *from one point in the United States to another*.

It will be observed that the tax is laid upon the transportation of "any package, parcel, or shipment by express *from one point in the United States to another*."

These shipments, as indicated in the above example, would be from one point to 10 different points, and a literal interpretation of the law, taken in connection with the use of the words "package, parcel, or shipment" might require the payment of this tax upon the parcel, or separate delivery basis.

This seems to have been in the mind of Congress at the time of the enactment of the law, but the proviso immediately following was doubtless intended to cure the difficulties or delays that might arise out of the literal interpretation of the language used. That proviso reads as follows:

Provided, That nothing herein contained shall be construed to require the carrier collecting such tax to list separately in any bill of lading, freight receipt, or similar

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document the amount of the tax herein levied, if the total amount of the freight and tax be therein stated.

It is manifest from the foregoing that it will not be necessary to specify in each express receipt the separate parcels marked with the name of point of delivery or to pay the tax upon that basis, if the total amount paid for transportation of the entire shipment and the tax due and paid be stated in such receipt.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2581.)

Income tax.

Extending time in which to file returns of income by nonresident alien individuals and corporations and American citizens residing or traveling abroad.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1917.

To collectors of internal revenue:

The provisions of T. D. 2445 of February 12, 1917 (from time to time amplified and extended to include November 1, 1917), granting to nonresident alien individuals and corporations and American citizens residing abroad who, because of war conditions, have not been able to file their returns of income for 1916, are hereby amended so as to extend the time in which returns for 1916 and subsequent years may be filed, for such period as may be necessary to and including 90 days after the proclamation of the President of the United States announcing the close of the war with Germany.

In all such cases there is required to be attached to the return an affidavit stating the cause or causes of delay in filing returns of income within time required by law, in order that, upon the showing made, the Commissioner of Internal Revenue may determine whether the failure to file returns in time "was due to a reasonable cause and not to willful neglect." When the showing justifies a conclusion that the failure to file returns in time is excusable, no penalty by way of addition to tax will be imposed.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2582.)

Distilled spirits.

Regulations governing the conservation of animal feed contained in the residue or slop after distillation of spirits from cereals under act of August 10, 1917.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 17, 1917.

To collectors of internal revenue and others concerned:

Distillers producing nonbeverage spirits under the act of August 10, 1917, must conserve from the residue the animal feed. The slops may be so conserved by feeding at the distillery, sold as slops for feed, or dried and shipped. Distilleries now being operated without the necessary facilities for conserving the slops will be required as soon as practicable to provide the equipment for drying, or to utilize the slops as animal feed. Distillers who do not within a reasonable time comply with these regulations will be prohibited from producing nonbeverage spirits from the materials enumerated in T. D. 2559 of October 26, 1917.

The question has arisen as to whether or not spoiled cereals may be used in the production of beverage spirits.

It is held that spoiled cereals can not be used in the production of beverage spirits, but may be used in the production of nonbeverage spirits.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W G. MCADOO,
Secretary of the Treasury.

(T. D. 2583.)

Inventories of tobacco, snuff, cigars, etc., on January 1, 1918.

Instructions relative to inventories by manufacturers of cigar and tobacco factories on January 1 next and verification of such inventories by collectors of internal revenue or their deputies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 17, 1917.

To collectors of internal revenue:

Manufacturers of tobacco, snuff, cigars, and cigarettes are required to make inventories on January 1 next in accordance with the following provisions of law:

Section 3358, Revised Statutes.—Every person now or hereafter engaged in the manufacture of tobacco or snuff shall make and deliver to the collector of the district a true inventory, in such form as may be prescribed by the Commissioner of Internal

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Revenue, and verified by his own oath, of the quantity of each of the different kinds of tobacco, snuff flour, snuff, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials held or owned by him on the 1st day of January of each year, * * * setting forth what portions of said goods and materials, and what kinds were manufactured and produced by him, and what was purchased from others. * * *

And whenever any such person refuses or willfully neglects to deliver the inventory * * * he shall be fined not less than five hundred dollars nor more than five thousand dollars and imprisoned not less than six months nor more than three years.

Section 3390, Revised Statutes.—Every person now or hereafter engaged in the manufacture of cigars (or cigarettes) shall make and deliver to the collector of the district a true inventory, in such form as may be prescribed by the Commissioner of Internal Revenue, of the quantity of leaf tobacco, cigars, stems, scraps, clippings, and waste, and of the number of cigar boxes and the capacity of each box, held or owned by him on the 1st day of January of each year * * * setting forth what portion and kinds of said goods were manufactured or produced by him and what were purchased from others, and shall verify said inventory by his oath indorsed thereon. * * * In case of refusal or willful neglect to deliver the inventory * * * he shall be fined not less than $500 nor more than $5,000 and imprisoned not less than six months nor more than three years.

The sections of the statutes referred to further provide that "the collector (or his deputy) shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath, to be indorsed on (or affixed to) the inventory."

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on the date specified. Each manufacturer should observe carefully the following instructions:

(1) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form.

(2) Each class of tobacco should be weighed separately. The inventory must include unstemmed tobacco authorized by the Commissioner of Internal Revenue to be stored off the bonded factory premises.

(3) All stamped as well as unstamped manufactured plug, twist, finecut, and smoking tobacco, snuff, cigars, and cigarettes, of the several classes, must be separately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

(4) When the inventory, which must be made before the commencement of business on the date specified, is completed, correct totals should be entered immediately on the prescribed inventory form which each collector of internal revenue will furnish each manufacturer for that purpose.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "Waste" only, and by quasi manufacturers of tobacco under separate heads, each properly described.

(6) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco

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and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently decribed to aid the deputy collector in verifying the inventory as required by law. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto and should include all unstemmed leaf tobacco stored off the bonded factory premises.

(7) An accurate record of the quantity of each class of tobacco used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of each class of tobacco which was on hand on the inventory date.

The inventories referred to should be verified by deputy collectors at the earliest practicable date after January 1 next. Therefore, every available deputy should be assigned to this work and instructed in regard to mapping out his routes to comply with these instructions. Each deputy should be directed to determine the correctness of the inventory from the quantity of each different kind of tobacco sold and used between the dates of inventory and his visit and the amount on hand and purchased. The deputy should also require any necessary amendment to be made by the manufacturer before the inventory is sworn to by him before the deputy, and should see that the instructions in regulations No. 8, approved July 1, 1910, page 60, headed "Deficiencies found by examining officers," are observed. Any deficiencies found should be reported immediately.

Collectors are hereby instructed to cause a copy of this decision, together with the prescribed inventory form, to be delivered to every manufacturer of tobacco, snuff, cigars, or cigarettes registered in their respective districts at the earliest practicable date after December 15 of this year, so that they can comply with the law in regard to inventories on the 1st day of January next. Cigar manufacturers should be supplied with revised Form 70 B, which will be forwarded to collectors without requisition.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2584.)

Synopsis of decisions on questions relating to the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 20, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to the war-revenue act of October 3,

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1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

ADMINISTRATIVE PROVISIONS—SECTIONS 1000 TO 1010.

Returns.—The returns required by section 1002 must be filed on or before November 2, 1917. The time for the filing of a return can not be extended by the giving of a bond.

ADMISSIONS AND DUES—SECTIONS 700 TO 702.

Club dues.—Where a club charges an initiation fee in addition to annual dues, the taxability of the club is estimated upon the annual dues plus the initiation fee.

Tickets sold to scalpers.—Tax is collectible upon the price for which theater tickets are sold to scalpers, provided there is no collusion between the theater and the scalpers.

BEVERAGES—SECTIONS 300 TO 315.

Flavoring extracts.—Distilled spirits used in the manufacture of ordinary flavoring extracts are subject only to the additional tax of $1.10 per proof gallon imposed by section 303.

CIGARS, TOBACCO AND MANUFACTURES THEREOF—SECTIONS 400 TO 404.

Post exchanges.—Stocks of cigars, tobacco, and cigarettes held for sale at the close of business October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403.

EXCISE TAXES—SECTIONS 600 TO 603.

(1) *Automobiles.*—Automobiles sold to the United States for the use of the Army are subject to the tax imposed by section 600(*a*).

(2) *Cameras.*—Process cameras sold by a manufacturer, producer, or importer are liable to the tax imposed by section 600(*j*).

(3) *Medicinal preparations.*—(*a*) Where a manufacturer of medicinal preparations sells for cash a quantity of goods to be delivered in monthly installments, his report for the month in which the sale is made should cover the full amount of the sale; (*b*) where medicinal articles are consigned to salesmen to sell, the return of the manufacturer should show the amount of the sales by the salesmen, including commission; (*c*) a spray to be applied to cows, horses, and other animals to keep off flies, vermin, etc., is not a medicinal preparation within the meaning of section 600(*h*); (*d*) if there is

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no claim or indication that a medicinal preparation is proprietary and no disease or infection is named for which it is claimed that the medicine is a remedy, the tax imposed by section 600(*h*) does not attach; (*e*) if medicine is advertised under the name or initials of the manufacturer, or if any name in the possessive case is used on the label or on literature describing the medicinal preparation, the tax is imposed; (*f*) where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark, the tax attaches.

FACILITIES FURNISHED BY PUBLIC UTILITIES—SECTIONS 500 TO 503.

(1) *Circus train.*—A railroad transporting a circus train should apportion the charges for the service rendered between the freight and passenger service, and the tax imposed by subdivision (*a*) of section 500 should be collected in the case of the former, and the 8 per cent tax imposed by subdivision (*c*) of said section should be collected in the case of the latter.

(2) *Freight—Lighterage.*—(*a*) Where the charge for transportation includes the charge for lighterage, which service is performed on or after November 1, 1917, the tax collected on or after that date should be based upon the entire charge for transportation; (*b*) logging companies which do a carrier business are subject to the tax imposed by section 500 upon the transportation of commodities owned by them which are not necessary for their use in the conduct of their business as carriers or intended to be so used or have been so used; (*c*) where a railroad company carries materials for a telegraph company free in consideration of messages sent free over the lines of the telegraph company, the tax attaches upon the amounts which the railroad company and the telegraph company would otherwise receive for services performed but for the comity of relations between them; (*d*) tax attaches upon the amount paid for transportation of goods from one pier to another in the same harbor.

(3) *Milk and cream.*—All transportation of milk and cream by express companies is "by express" and the amount paid therefor is subject to the tax imposed by subdivision (*b*) of section 500. If the transportation is by trolley lines the classification employed by the trolley line as "by freight" or "by express" will govern and the tax will be imposed accordingly.

FACILITIES FURNISHED BY PUBLIC UTILITIES—SECTIONS 500 TO 503.

(4) *Passenger.*—(*a*) An automobile carrier operating on a regular established line in competition with carriers by rail or water is liable to tax, provided the charge for fare is in excess of 35 cents; (*b*) the tax imposed by subdivision (*c*) of section 500 is applicable to scrip books at the time of their purchase; (*c*) where a ticket is sold in

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Chicago to Havana via New York City, the rail ticket should be taxed under the provisions of subdivision (*c*) of section 500 and the steamer ticket under Schedule A, Title VIII, paragraph 10 of section 807.

INCOME TAX.

Penalty of 50 per cent on delinquent returns.—A 50 per cent additional tax attaches upon all delinquent returns for 1916 and subsequent years in the absence of a showing of a reasonable cause for delinquency. If the cause assigned is carelessness, oversight, or other trivial cause, the 50 per cent penalty will be assessed.

Withholding normal tax.—Where a resident alien received a dividend in 1916 from a foreign corporation which was earned by the corporation partly in 1915 and partly in 1916, the tax to be withheld is 2 per cent of the entire dividend.

STAMP TAXES—SECTIONS 800 TO 807.

Interim certificates.—Issues of interim certificates pending stock issue of corporations organized or reorganized on and after October 4, 1917, are subject to tax of 5 cents on each $100 face value or fractional part thereof. Subsequent exchange of such interim certificates for regular stock certificates to the same owner will not be subject to tax.

(T. D. 2585.)

Amount of income from Liberty bonds exempt from tax.

The income from not to exceed $5,000 face value of Liberty bonds, Treasury certificates of indebtedness, and war-savings certificates authorized by the act of September 24, 1917, is exempt from all income and war excess profits taxes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 8, 1917.

To collectors of internal revenue:

Attention is called to section 7 of the act of Congress approved September 24, 1917, providing for the issue of 4 per cent Liberty bonds, Treasury certificates of indebtedness, and war-saving certificates, which reads as follows:

That none of the bonds authorized by section one, nor of the certificates authorized by section five, or by section six, of this act, shall bear the circulation privilege. All such bonds and certificates shall be exempt, both as to principal and interest from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (*a*) estate or inheritance taxes, and (*b*) graduated additional income taxes, commonly known as surtaxes, and excess profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, asso-

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ciations, or corporations. The interest on an amount of such bonds and certificates the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in subdivision (*b*) of this section.

You are hereby informed that holders (whether individuals, partnerships, associations, or corporations) of Liberty bonds, Treasury certificates of indebtedness and war savings certificates authorized by the act of September 24, 1917, are entitled to exemption from all income and war excess profits taxes upon the interest received on a principal amount not to exceed $5,000 face value of such obligations. If, for example, the holder owns $5,000 Treasury certificates of indebtedness, $7,000 4 per cent Liberty bonds, and $1,000 war-savings certificates, he will be entitled to exemption from graduated additional income taxes and war excess profits taxes upon only the interest received upon $5,000 of the aforesaid obligations. It is immaterial whether the 4 per cent Liberty bonds were issued to the holder in exchange for Liberty bonds of the first series or Treasury certificates of indebtedness, or whether issued upon a new subscription. The exemption is upon the income from $5,000 face value of the obligations issued by authority of the aforesaid act of September 24, 1917.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2586.)

War tax on admissions.

Where maximum admission to matinee performance is 5 cents, but at evening performance in excess of 5 cents, tax due only on evening performance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1917.

To collectors of internal revenue and others concerned:

The rule has been established that where the charge for admission to any part of a theater during a matinee performance does not exceed 5 cents and a charge exceeding 5 cents is made for the evening performance, tax will be due only on admissions to the evening performance. However, all admissions for the evening performance, including those not over 5 cents, will cause liability to tax to accrue.

The same rule applies where the performance is continuous and the maximum charge up to a certain hour is not in excess of 5 cents

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and the maximum charge after such time does exceed 5 cents. In such case tax is due only on admissions paid after the time when the increased charge takes effect, but is due on all admissions paid after such time, including admissions not exceeding 5 cents.

Bona fide employees of the theater, municipal officers on official business, and children under 12 years of age are exempt from such tax when admitted free. All other persons admitted free are subject to tax the same as parties paying for admission.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2587.)

Wood alcohol.

Changing the specifications for the acetone content in the denaturing grade of wood alcohol.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1917.

To collectors of internal revenue and others concerned:

At the request of the War Department it has been decided to reduce the acetone content in the denaturing grade of wood alcohol.

Specifications for the acetone content are hereby changed to read:

It must contain not more than 10 grams nor less than 3 grams per 100 c. c. of acetone and other substances estimated as acetone.

This change effective at once.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2588.)

War-revenue act.

Synopsis of rulings on questions relating to war tax on insurance, Title V, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to taxes imposed on insurance under

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Title V, act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

"A fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents," is exempt from tax on insurance.

Casualty insurance policies written on and after November 1, 1917, are taxable.

Companies insuring or guaranteeing any loss that might be occasioned by reason of accepting mortgages that can not be foreclosed or in any manner recovered upon are subject to tax under paragraph (c).

Associations composed of employed or others who band themselves together for mutual protection in issuing life and casualty insurance are subject to tax under paragraph (c) unless exempted under paragraph (d). (See first paragraph.)

If mutual fire or tornado insurance companies are exempt under the income-tax law, no tax is imposed by this act. Said income-tax law is, in part, as follows:

> Farmers' or other mutual, hail, cyclone, or fire insurance company * * * or organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses.

Brokers who place risks for clients with insurance companies are not subject to tax under section 504, as the tax is imposed upon the companies issuing the insurance.

No tax on insurance is imposed on the insured. Tax is imposed by section 504 upon the person, firm, or corporation writing the insurance, the necessary returns for which will be rendered to the collector of the district in which the principal place of business is located. (See also last paragraph.) The tax is imposed on newly written policies and on premiums paid on "open" policies, but not on amounts paid on policies of reinsurance. Consequently, where an insurance company reinsures the risks of another company the transaction is termed reinsurance, and would not be taxable. The tax is imposed on insurance without regard to sex or age of the insured.

Reinsurance is regarded as that insurance taken out by a company which has overinsured and obtains another company to underwrite it for a part of the liability.

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Tax accrues on insurance policies issued within the United States irrespective of the residence of the insured.

Tax under section 504 is imposed on the premium charged, each separate premium collected to be regarded as a separate item for the computation of the tax and not on the gross premiums collected for any one month.

So far as tax is concerned, the issuance of a policy is considered to be the date when the policy is delivered to the insured or in any other manner becomes a valid claim and effective for insurance.

Return for tax on insurance may be filed either direct from the home office or by the State superintendent, where such is appointed or employed. Single reports, prepared by home offices, however, are preferred. Local insurance agents will not be required to make returns. Blank forms of returns required by section 505 will be furnished to insurance companies monthly by this office. Returns showing the name and address of each person to whom an indemnity is paid is not required. Permission will be granted to take credit in a subsequent month's report for any overpayment of tax for a prior month.

(T D. 2589.)

Income tax.

Revision of article 40, regulations No. 33, issued January 5, 1914, relative to the use of substitute certificates in lieu of original certificates presented with coupons for collection by nonresident alien individuals, firms, corporations, organizations, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1917.

To collectors of internal revenue:

The use of substitute certificates by responsible banks, bankers, and collecting agents in lieu of original certificates of ownership accompanying coupons presented for collection, prescribed by article 40, regulations No. 33, issued January 5, 1914, is hereby discontinued with respect to ownership certificates presented with coupons for collection by nonresident alien individuals, firms, corporations, organizations, etc.

In such cases the original certificate of ownership accompanying coupon should go to the debtor corporation without substitution.

All regulations in conflict herewith are hereby repealed.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
L. S. ROWE,
Acting Secretary of the Treasury.

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(T. D. 2590.)

War-revenue act.

Synopsis of rulings and questions relating to war tax on admissions and dues, Title VII, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 24, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to taxes on admissions and dues imposed under Title VII of the act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

ADMISSIONS.

Critics of musical and operatic performances admitted free must pay the tax. Complimentary tickets issued to benefit concert or entertainment for a charity hospital or other similar institutions, the proceeds of which are exempt under section 700, are not taxable. Complimentary or free tickets to adults are taxable, but are not taxable when given to children under 12 years of age. This rule applies when the proprietor of a theater invites orphans from a children's home.

Admissions to dance halls are taxable; additional charges for the privilege of dancing are not taxable. Where a corporation owns a bathing tank and charges are made for furnishing bathing suits and privileges of the tank, no charge being made for spectators, the charges are not taxable. The same is true of skating rinks and like amusements. Admissions to Sunday afternoon orchestral concerts are taxable. Admissions to football, baseball, and other athletic games are taxable. Admissions to caves and other similar exhibitions are taxable. Admissions to food shows are taxable.

If a group of people get together and take up a collection or contribution of money to pay for the music, such collection or contribution would not be regarded as price paid for admission to a dance.

Children under 12 years of age shall be taxed 1 cent irrespective of the price of admission, unless the maximum charge to the theater is 5 cents or less. If admission to a theater is 10 cents on Sundays and holidays and 5 cents on all other days, the admissions on Sundays and holidays are taxable; admissions on other days are not taxable. Where theaters are not permitted to charge admission but

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overcome the difficulty by taking a silver collection at the door, there is no objection to selling what is known as "revenue tickets" with each contribution, a 10-cent contributor paying 11 cents, etc. "Four-Minute Men," who make short talks in the interest of the Government at various places where admissions are usually charged, not there for the purpose of viewing the performance, are not required to pay tax.

Traveling theatrical companies paying special tax as theaters, not showing in regular building built and rented for that purpose should collect the tax on admissions. If they show in regular theaters or opera houses, the owners of such theaters or opera houses must collect the tax and file returns. Where the proprietor of a theater leases a theater and reserves a box for his own use or for any one whom he may designate, the tax to be collected on this box is the same as is collected upon any other box or like accommodation at the same theater.

To be a religious, educational, or charitable institution, society, or organization, such purposes must be its primary or principal function; lodges and fraternal orders operating moving-picture shows, etc., and using the proceeds to pay for the building are required to collect admission tax. Admissions to theaters operated for the exclusive benefit of a public library or high school are exempt from taxation. Air-domes do not come within the exemption of open-air parks and admissions thereto are taxable.

Where a book is sold containing a number of tickets at a reduced rate tax should be collected at the time the book is sold on the basis of reduced rate.

All tickets, including season tickets, purchased prior to November 1 are not taxable. The unused portion of a subscription ticket sold and partially used before November 1 is not taxable.

Daily cash register receipts as shown by the cash register machine can not be taken as the basis of computing the amount of tax due, unless all admissions are 10 cents or a multiple of 10 cents.

A manager of a theater may refuse to refund the tax collected on unused tickets.

There is no stamp tax on theater tickets. The seller of the ticket collects the proper tax computed on each ticket separately from the purchaser and must file return thereof on or before the last day of the month following that covered by the return.

It is unnecessary to print on admission tickets that tax has been paid by purchaser, though, if done, no objection will be raised. Where there is no box-office price the amount paid is taxable. The following are illustrations of tax on admissions:

Admission, 35 cents; tax, 4 cents; total to be collected, 39 cents.
Reserved seats, 25 cents, tax 3 cents; total to be collected, 28 cents.
Admission, 25 cents; tax, 3 cents; total to be collected, 28 cents.

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Reserved seats, 15 cents; tax, 2 cents; total to be collected, 17 cents.

Admission, 10 cents; tax 1 cent; total to be collected, 11 cents.

Admission (for child under 12 years of age), 5 cents; tax, 1 cent; total to be collected, 6 cents.

DUES.

Assessment dues are taxable. Life-membership fees paid on or after November 1 are taxable. Dues are taxable if they exceed $12 per year. College fraternity dues are taxable. "Green fees" paid by a member of a golf club for a guest are taxable. Where the annual dues are in excess of $12, but paid in two or more annual installments, the installments are taxable pro rata. Where the only initiation fee charged is the purchase of a share of stock in the club, tax on such fee does not apply under Title VII. Where membership entitles a member to admission with one guest, no further tax is required for admission of such guest. Other guests admitted free of charge, however, must pay the tax. The tax on club dues may be paid by the clubs themselves.

The burden of proof is upon commercial clubs et al. to prove that they are purely business organizations without social features.

Instructions as to making returns under this section will be printed on the back of each return blank sent out from this office.

(T. D. 2591.)

War-revenue act.

Synopsis of rulings on questions relating to war excise taxes, Title VI, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 24, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to taxes imposed under Title VI, act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

JEWELRY.

Manufacturers should compute tax on jewelry upon the price they make to wholesalers or retailers, less regular trade discounts.

With reference to jewelry given as prizes in connection with "games, etc.," tax is imposed on the manufacturer, producer, or importer of the jewelry, or upon the wholesaler having a stock on hand the day this act was passed.

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As to specific articles, it is held that the following shall be considered as jewelry: (*a*) A string of rose beads, (*b*) pencils and pen holders manufactured in precious or imitation precious metals, (*c*) souvenir pins for use and sale at summer resorts, (*d*) knitting needles, protectors, yarn holders, etc., if mounted or decorated in any way with precious or imitation precious metals, (*e*) slides and swivels used in connection with a ribbon chain, (*f*) lapel flag pins.

It is held that the following shall not be considered as jewelry: (*a*) Silver tableware, (*b*) eyeglass frames, (*c*) plain opera and field glasses, (*d*) clocks, (*e*) fountain pens, (*f*) rosaries, (*g*) American Red Cross buttons, (*h*) metal bag frames for attachment to silk bags, (*i*) repairs on jewelry, (*j*) military and naval insignia, (*k*) plain hair combs made of rubber, shell, or celluloid, absolutely unadorned.

Only completed articles of jewelry are taxable. Parts used in manufacture are not taxable.

(*a*) AUTOMOBILES, ETC.

There is no drawback on exported automobiles, automobile trucks, etc.

Automobiles, automobile trucks, motor cycles, etc., manufactured in a foreign country by a company completely controlled and managed in the United States are subject to the sales tax.

Speedometers or any other attachments or accessories to automobiles, motor cycles, etc., if sold separately and not as the usual equipment for the machine, and are not attached thereto, are not taxable.

No tax under this act is upon the purchaser or user of automobiles, etc.

Section 600 makes no distinction between pleasure cars and motor trucks. Both are taxable.

(*b*) PIANO PLAYERS, ETC.

This act does not levy a tax upon the sale of player pianos, etc., by retailers.

The additional charge other than for price added to invoices by manufacturers does not concern this office and is a matter over which it has no jurisdiction.

Accessories to piano players, phonographs, etc., are not taxable, unless sold in combination with the machine, in which case the tax attaches to the completed article.

Toy talking machines are taxable.

(*c*) AND (*d*) MOVING-PICTURE FILMS.

Printed or hand-lettered titles or subtitles used in connection with a complete picture production, constitute a part of the film and

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should be included in the length of the film upon which the tax is to be computed. If these projections are in the shape of slides or announcements, no tax will attach.

Blank films are taxable only when sold by a manufacturer, producer, or importer.

The tax is not upon the manufacture of the film itself, but upon its sale or lease.

A distributor of films, pure and simple, is not subject to tax under this act.

It is immaterial whether a person is a wholesaler or retailer of films, because section 602 does not impose a floor tax upon either positive or negative films.

(*f*) TENNIS RACKETS, ETC.

Tax is imposed only on such sporting goods as are specifically mentioned in the act.

Bamboo fishing poles, skee-ball, and box-ball alleys, Flinch and rook cards, or any other games played by both adults and children, are taxable.

Wooden racks used as receptacles for poker chips and playing cards when sold separately and without the poker chips or playing cards, toy tennis rackets, tackle, and other fishing-rod appurtenances, are not taxable.

(*g*) PERFUMES, ETC.

Shaving soap, toilet soap, witch-hazel, Ivory and Pearl soaps, petroleum jellies for toilet purposes, chipped soap in barrels or kegs for export are taxable.

All hair tonics are specifically taxed by this section.

Raw materials, such as rose oil, etc., to be manufactured into perfumes, etc., floor oils, floor wax, kitchen soap powders, and other articles used exclusively for household and not for toilet purposes, are not taxable.

Containers of perfumes, etc., if billed and shipped separately, are not taxable. If sold together, the tax must be computed upon the combined price of the perfume and the container.

Branch warehouses carrying a stock of taxable articles should, unless absolutely separate from the parent house, make reports to the parent house, the latter being liable for monthly returns for the taxes on the sales.

(*h*) PILLS, ETC.

The taxability of a medicinal substance or preparation is determined by the manner in which it is prepared or the way in which it is put upon the market.

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Medicinal preparations for beasts, when the same would be taxable if used by man, are taxable. Arona, cough drops, National corn remover, and Criswell's jimson-weed plaster are taxable.

Samples of patent medicines, etc., distributed gratis from house to house, articles and preparations commonly known as stock foods, 20-mule-team borax, avenarious carbolineum, mixed feeds, chicken feeds, etc., not recommended or held out as remedies or specifics for affections or diseases but as feed only, Thompson's malted milk or malted beef peptone, Horlick's malted milk, and other food preparations, whether for man or beast, unless held out or recommended as remedies or specifics for diseases of the human or animal body, insecticides, as such, are not taxable.

Where the owner of a formula contracts with a manufacturer to manufacture a certain amount of his product, and to bottle, label, carton, and prepare same for shipment and delivery to owner of formula, the labels containing formula owner's name and address only, the formula owner is the manufacturer of the goods and will have to pay the tax. If under these circumstances, the formula owner sells a part of this preparation at retail, he must render return for sales tax upon price for which goods are sold.

A retail dealer, manufacturing a patent medicine by a private formula, is subject to the "producer's" tax, even though he sells such a product only in his retail store.

(SEC. 603) MOTOR BOATS.

Tax on motor boats is imposed for the balance of the fiscal year (beginning Oct. 4, 1917, ending June 30, 1918), on October 4, 1917, even though the vessels were not in active use. Hereafter liability to such taxes should be computed from the month of July, or upon the purchase of a new boat by the user or consumer, in the same manner as special taxes are computed.

(T D. 2592.)

War-revenue act.

Synopsis of decisions on questions relating to admissions and dues under sections 700 to 702 of the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 26, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to admissions and dues, sections 700

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to 702 of the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

ADMISSIONS AND DUES.

Complimentary tickets.—Complimentary tickets given to and used by honorary members of a chorus are liable to the same tax as similar tickets sold to the public. Tickets furnished free to associate members who pay dues for the support of the chorus are liable to tax up to the value of the tickets.

Dues charged by Y. M. C. A. and Y. M. H. A.—Amount charged by the Y. M. C. A. and Y. M. H. A. for admissions and dues are exempt from taxes imposed by sections 700 to 702 of the war-revenue act.

Theater tickets.—Where theater tickets are sold by a theater through an agency, tax must be based upon the amount charged for the tickets by the agency and not upon the net amount received by the theater. Where tickets are sold by the theater to the public without knowledge that they are to be again sold by the purchaser, tax will attach upon the amount received by the theater for the sale of the tickets.

(T. D. 2593.)

Distilled spirits—Nonbeverage alcohol.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 27, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

Information has been received that pharmacists are dispensing so-called nonbeverage alcohol produced after September 9 and tax paid at $2.20 per proof gallon on physician's prescriptions, without medication under the formulæ set forth in T. D. 2576.

Attention is hereby called to the fact that under T. D. 2559 as modified by T. D. 2576 nonbeverage alcohol can not be dispensed to persons who do not hold permits, whether upon physician's prescription, or otherwise, except in quantities of a pint or less, and on condition that the alcohol is first medicated according to one of the 10 formulæ set forth in T. D. 2576.

The so-called nonbeverage alcohol taxable at the rate of $2.20 per proof gallon must not, therefore, be dispensed under a physician's

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prescription, unless in the compounding thereof the same is so medicated as to render it absolutely unfit for use as a beverage. In case of prescription compounding, the druggist will be held responsible as to the sufficiency of the medication.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2594.)

Documentary stamps.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 28, 1917.

To collectors of internal revenue and others concerned:

Owing to lack of supply of colored inks and volume of work now devolving on the Bureau of Engraving and Printing, it will be impossible to obtain and distribute to the various collectors a supply of distinctive colored adhesive documentary stamps, designed by this office for use in payment of the war stamp taxes, imposed by paragraphs 4 and 5, Title VIII, Schedule A, act of October 3, 1917, before February 1, 1918.

In order that the business of produce exchanges, boards of trade, stock exchanges, and other similar places, may not be handicapped or interfered with, collectors will, upon requisition for such stamps, issue the regular documentary stamps until a special supply of overprinted stamps, provided to temporarily take the place of the distinctive colored stamps, shall be prepared and distributed.

These temporary special stamps, which will be distinguished from other documentary stamps by the letters "S. T." for stock transfers and "F. D." for future delivery contracts, overprinted upon the face thereof, will be ready for distribution to collectors by December 10, 1917. Collectors requiring these special stamps should immediately ascertain the probable number of each denomination necessary to supply the demand for the period December 15, 1917, to February 1, 1918, and at once make requisition therefor.

Collectors will notify taxpayers requiring such stamps, who purchase the regular documentary stamps for the purpose above mentioned, that upon receipt of these temporary special stamps they may return to the collector's office all unused regular adhesive stamps to exchange for the special stamps. Thereafter collectors will not issue the regular adhesive stamps to members of produce exchanges, boards of trade, stock exchanges, and other similar places for the payment of the taxes herein specified, but will issue only these special stamps until supplied with the distinctive colored stock

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transfer and future delivery contract stamps, after which only the latter stamps will be issued for payment of such tax.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2595.)

Label on boxes of large cigars indicating class of tax payment.

Providing for printing or stamping directly on each box of large cigars legends concerning the class of tax payment.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 22, 1917.

To collectors of internal revenue:

The provisions of T. D. 2569, with reference to the label to be affixed to each box of cigars weighing more than 3 pounds per thousand, indicating the class of tax payment, are hereby modified so as to permit the printing or stamping of the required legend directly on the front of each box. The printing or stamping should be clear and distinct.

The dimensions of the label prescribed may be reduced in the case of wooden boxes containing 25 or less cigars, and also small packages not made from wood, on which it may be printed as part of other printing thereon. Each such label on small packages not made from wood, known to the trade as package goods, should be perfectly legible and should appear in a conspicuous place.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2596.)

Facilities furnished by public utilities.

Passengers failing to pay and carriers failing to collect the 8 per cent passenger tax subject themselves to the penalties imposed by section 1004 act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 1, 1917.

To collectors of internal revenue and others concerned:

Section 500, subdivision (c), of the act of October 3, 1917, imposes a tax "equivalent to 8 per centum of the amount paid for transpor-

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tation of persons, * * * from one point in the United States to another, * * * not including the amount paid for commutation or season tickets for trips less than thirty miles, or for transportation, the fare for which does not exceed 35 cents." The words "one point in the United States to another" mean from starting point to destination regardless of whether a ticket is purchased or cash fares paid for such trip.

The tax attaches when a passenger makes a continuous journey, the total fare for which from starting point to destination exceeds 35 cents.

If the transportation company collects the fare at intervals in amounts of less than 35 cents, as in the zone system, tax at the rate of 8 per cent must be collected on the total charges from starting point to destination if such charges are in excess of 35 cents.

Failure to pay such tax by a passenger as well as failure to collect it by a carrier, is a violation of section 1004 of the act of October 3, 1917, and subjects them "to a penalty of not more than $1,000 or to imprisonment of not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not collected, or accounted for and paid over."

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2597.)

Transportation.

Where charges for transportation of property, etc., are paid by the United States, State, Territory, or District of Columbia, no tax is due; if a Government bill of lading is not used it must be shown that charges are paid as noted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 20, 1917.

Mr. ——— ———.

SIR: Referring to your letter of the 19th instant, with inclosures relating to property of the United States and of States shipped by freight, you are advised that shipments or property belonging to the United States or to any State, Territory, or the District of Columbia, the charges on which are paid by the United States, State, Territory, or the District of Columbia, will be made free of the tax imposed by section 500 of the act approved October 3, 1917. It will be necessary in all cases of shipments made by freight where Government bills of lading are not used for the officer or employee of the United States, State, Territory, or the District of Columbia to satisfy the agent to whom the charges are paid that the service rendered or to be rendered is for the United States, State, Territory,

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or District of Columbia, as the case may be; and the agent collecting the charges should note on the records of his office the name of the consignor and consignee and indicate thereon that such shipment covered service rendered the United States, State, Territory, or the District of Columbia, as the case may be, and was not subject to tax.

If material for use in governmental work is consigned to contractors, it will be necessary for the tax to be collected at the time freight charges are paid, unless it is shown that said charges are payable directly by the United States, State, Territory, or the District of Columbia.

The words "State" and "Territory" as used in said act are held to include the political subdivisions thereof.

Respectfully,

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2598.)

War-revenue act.

Synopsis of rulings on questions relating to war tax imposed by sections 313 to 315, inclusive, Title III, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 24, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to war tax imposed by sections 313 to 315, inclusive, Title III, act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

SECTION 313.

Alcohol which can not legally be used for beverage purposes may be used in the manufacture of flavoring extracts.

Sirups and extracts used by rectifiers of spirits are not taxable under this section.

Extracts sold by the manufacturer to be used in the manufacture or production of beverages, commonly known as soft drinks, are taxable. If sold for manufacturing ice cream, no tax is imposed.

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Ginger ale, root beer, sarsaparilla, pop, and other carbonated waters or beverages are not taxable when the manufacturer of same buys his carbonic-acid gas and pays the tax of 5 cents per pound.

No floor tax was imposed by this act upon sirups, extracts, etc., in the hands of wholesalers or jobbers on October 4.

SECTION 315.

Carbonic-acid gas used in the manufacture of ale or lager is taxable.

Carbonic-acid gas sold for use in the maintenance and operation of refrigerating plants is not taxable.

If there is a leakage of carbonic-acid gas in transit, the tax is only upon the amount of gas sold to the customer. If on account of leakage no sale is consummated, tax would not rest.

(T. D. 2599.)

War-revenue act.

War stamp taxes under sections 800 to 807, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to war stamp taxes imposed by sections 800 to 807 of the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Assignment of insurance policies.—No stamp tax is imposed upon the power of attorney contained in a transfer by assignment, absolute or as collateral security, of an interest in a contract of insurance, if the power of attorney grants authority to do or perform only such acts for or in behalf of the assignor as are otherwise vested in the assignee.

Contracts and articles of incorporation.—Articles of incorporation, applications for issuance of corporate charters, and contracts for the performance of services are not subject to stamp tax.

Contracts to convey.—A contract for the sale of real estate, making provision for future delivery by deed, is not subject to stamp tax.

Contracts to issue stock.—The stamp tax does not apply to a contract or agreement by a corporation to issue stock.

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Conveyances, deeds, etc.—On an instrument conveying real estate there should be attached a tax stamp of the face value corresponding with the amount representing the vendor's equity conveyed. Where an exchange of equal equities in real estate is made between two persons a tax stamp should be attached to each of the two deeds corresponding with the amount of each equity exchanged. In determining the amount of incumbrance upon real estate being transferred, no consideration is to be given to new incumbrances placed upon same at the time of, or after, the sale. Only incumbrances which rest on the property before the sale and which are not removed by the sale are to be taken into consideration.

Leases.—The provisions of the law imposing taxes upon conveyances of real estate are not applicable to leases, and tax stamps are not required to be attached to such instruments.

Parcel-post packages mailed to Porto Rico.—Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax.

Promissory notes on account of premium extension agreements.—Policy loan and premium extension agreements are not promissory notes as contemplated by the law and therefore are not liable to stamp tax.

Security agreements and applications for loans.—Neither a security agreement signed by a prospective borrower of a bank, empowering the bank to apply any securities, money, or other property of the prospective borrower in the hands of the bank to satisfy the debt of the borrower to the bank, nor the form of application for the loan, is included in the classes of instruments made subject to stamp tax under Schedule A of section 807, and neither is therefore subject to such tax.

Transfer of stock before issue of certificate.—A tax of 5 cents on each $100 of face value or fraction thereof attaches to the original issue of each certificate of stock, and a tax of 2 cents on each $100 of face value or fraction thereof to each transfer or sale of stock, whether the transfer is made before or after issuance of the original certificate.

(T. D. 2600.)

War-revenue act.

Facilities furnished by public utilities under sections 500–503, act o fOctober 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to "facilities furnished by public

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utilities" imposed by the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

SECTION 500.

Subdivision (a)—Tax of 3 per cent on the amount paid for the transportation of property by freight.

This tax is imposed (1) when the property is transported from one point to another in the United States by rail; (2) when the property is transported from one point to another in the United States by water; (3) when the property is transported from one point to another in the United States by any form of mechanical motor power when in competition with carriers by rail or water.

Tax accrues and must be collected with the freight charges.

Tax does not attach separately on the following miscellaneous services rendered by a carrier when the charge for such services is included and paid in the through tariff rate for the road haul: (*a*) Switching and drayage; (*b*) wharfage, storage, and lighterage; (*c*) compressing in transit; (*d*) milling in transit; (*e*) dressing and refining in transit; (*f*) diversion and reconsigning charges; (*g*) refrigeration; (*h*) car service; (*i*) demurrage; (*j*) charge for consigning freight to order notify; (*k*) storage; (*l*) car rental; (*m*) switch charges for return of empty cars over belt or switching lines; (*n*) weighing charges; (*o*) feeding and watering stock in transit.

However, if the through tariff rate does not include such services, the amounts paid for the same are taxable if such services are a part of the transportation by the carrier. In computing the tax on shipments by freight, the provisions of section 1008 should be followed in regard to fractional parts of a cent. Said section reads as follows:

> That in the payment of any tax under this act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

In instances in which the amount paid for transportation by freight is a lump sum, the tax should be imposed upon such sum without regard to the individual items which make up the total.

Amounts paid for transportation of milk and cream handled by a steam railroad itself are taxable under this subdivision.

Amounts paid to ferry companies for transporting property by water are subject to this tax.

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Subdivision (b).—Tax of 1 cent for each 20 cents or fraction thereof paid for the transporation of property by express.

This tax is imposed under the following conditions: When the parcels, packages, or shipments are transported by a person, corporation, partnership, or association operating over regular routes between fixed terminals from one point in the United States to another.

When property is transported between two points, a part of the way by freight and a part of the way by express, the taxes should be assessed on the amount paid for the freight movement at 3 per cent and on the amount paid for the express movement at 1 cent for each 20 cents or fraction thereof.

Subdivision (c).—Tax of 8 per cent of the amount paid for the transportation of persons.

This tax is imposed on the amounts paid for the transportation of persons by rail or water, or by any form of mechanical motor power on a regularly established line when in competition with carriers by rail or water, from one point in the United States to another or any point in Canada or Mexico where the ticket therefor is sold or issued in the United States, not including the amount paid for commutation or season tickets for trips less than 30 miles, or for transportation the fare for which does not exceed 35 cents.

Round-trip tickets costing 70 cents or less are exempt from the tax.

Coupon books costing in excess of 35 cents are subject to tax at the time of the purchase.

The tax imposed by this subdivision should be collected on the total amount paid for a mileage book.

Amounts paid to ferry companies for transporting passengers by water are subject to this tax.

United States soldiers on furlough paying their own expenses are not exempt from payment of tax imposed by this subdivision

SECTION 501.

No tax is imposed under this section on the transporation of persons who are entitled to free transportation under the provision of the act of June 18, 1910, amending an act to regulate commerce, approved February 4, 1887, or under State law.

SECTION 502.

This section exempts from the taxes imposed by section 500 the amounts paid for services rendered to the United States or any State, Territory, or the District of Columbia.

Specific exemptions under said section include the following: All institutions maintained solely for the exercise of legitimate governmental functions, such as State colleges, public libraries, hospitals, etc. Amounts paid for services rendered if the payment

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is made from the Treasury of the United States, the District of Columbia, a State, Territory, or a political subdivision of either of the last two named.

The food administration grain corporation, Federal Farm Loan Board, Federal land banks, farm loan registers, land bank examiners, and land bank appraisers are exempt from tax under this section when exercising strictly governmental functions.

SECTION 503.

Under this section the calendar month is the basis for the returns herein required and returns should be made accordingly.

(T. D. 2601.)

War-revenue act.

Excise taxes imposed by sections 600 to 602 of the war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1917.

To collectors of internal revenue and others concerned:

The following synopsis of decisions of the Commissioner of Internal Revenue on questions relating to excise taxes imposed by the war-revenue act of October 3, 1917, is published for the information of revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Automobiles.—A motor wheel when sold unattached to a bicycle, velocipede, or other vehicle is not taxable, but when sold in connection with a bicycle, velocipede, or other vehicle, the tax attaches to the completed article. The "Smith-Flyer," a self-propelled vehicle, is taxable as an automobile under section 600.

Floor tax.—"A retailer who is not also a wholesaler" is a retailer who does not from the same stock of goods also sell at wholesale. Hence, where wholesale and retail stocks are kept separate, the tax applies only to the wholesale stock. Where automobiles are sold at both wholesale and retail by a person who acts as agent for the manufacturer, no floor tax applies, but the manufacturer is liable for the tax upon all sales.

Medicinal preparations.—Boric acid when sold under a trade-mark and held out to the public as a medicinal preparation is taxable under paragraph (h) of section 600. Where a medicinal preparation is "held out or recommended" as a remedy, even though such recommendation is intended for physicians only, it is a holding out to the public through the physician and is subject to the tax imposed.

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Where medicinal preparations are sold under labels which do not indicate that the formula is published, they will be construed to be prepared under secret formulas, unless affidavit or other evidence is submitted to show that the formula is not a secret. Licorice, when put up in the form of sticks, lozenges, wafers, or other forms suitable for medicinal purposes and sold under a trade-mark, although not held out or recommended to the public as a medicinal preparation, is subject to the tax imposed under the act.

Toilet articles.—All soaps that are advertised or held out to the public as suitable for toilet purposes, or for application to the body or a part of a body as a cleansing agent, are taxable.

(T. D. 2602.)

War excess profits tax.

Treatment under section 201 of the act of October 3, 1917, of the deduction authorized by section 203, 204, 205, or 210.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1917.

To collectors of internal revenue and internal-revenue agents in charge:

The method of allowing the deduction authorized by section 203, 204, 205, or 210 of the act of October 3, 1917, will be as follows:

In any case in which the deduction provided for in section 203, 204, 205, or 210 is greater than 15 per cent of the invested capital, and therefore can not be fully allowed under the first rate or bracket of section 201, then in that event any remaining portion of the deduction will be allowed under the second bracket and continued if necessary into the succeeding bracket or brackets until the entire amount of the deduction is allowed.

ILLUSTRATIONS.

An individual or partnership engaged in the manufacturing business with a capital of $30,000 and a net income of $12,000 for the taxable year, an average prewar net income of 9 per cent, or $2,700, and a total deduction of $8,700:

Bracket.	Rate (per cent).	Amount taxable under each bracket.	Tax.
First	20		
Second	25		
Third	35		
Fourth	45	$1,200	$540
Fifth	60	2,100	1,260
Total			1,800

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A corporation engaged in the manufacturing business with a capital of $30,000 and a net income of $12,000 for the taxable year, an average prewar net income of 9 per cent, or $2,700, and a total deduction of $5,700.

Bracket.	Rate (per cent).	Amount taxable under each bracket.	Tax.
First	20		
Second	25	$300	$75
Third	35	1,500	525
Fourth	45	2,400	1,080
Fifth	60	2,100	1,260
Total			2,940

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved.
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2603.)

Tax on admissions to cabarets, etc.

Method of computing amounts to be collected. Definition of words "cabaret or other similar entertainment."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 4, 1917.

To collectors of internal revenue and others concerned:

Section 700, clause C, of the act of October 3, 1917, is as follows:

A tax of 1 cent for each 10 cents or fraction thereof paid for admission to any public performance for profit at any cabaret, or other similar entertainment to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be computed under rules prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, such tax to be paid by the person paying for such refreshment, service, or merchandise.

It appears as a result of the investigation conducted by this office that in the case of the cabarets or other similar entertainments conducted for profit, the price of admission to which is not entirely covered by a separate charge, the portion of the amount paid for refreshments, service, tables, seats, or merchandise in the hotels, restaurants, halls, and other public places, in which the cabarets and other entertainments are conducted, which fairly represents the equivalent of admission, is at least 20 per cent.

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It is therefore ruled that this tax shall be computed as follows:

(1) Twenty per cent of the amount paid for refreshments, merchandise, service, etc., including any sum paid for seats and tables reserved or occupied, at any public performance for profit at any cabaret or other similar entertainment, to which the charge for admission is wholly or in part included in the amount so paid, shall be regarded and deemed to be paid for admission to such performance. The tax is at the rate of 1 cent on each 10 cents or fraction thereof of such 20 per cent of the total charge to each patron for the items above named, and shall be paid by the person paying for such refreshments, service, etc.

(2) "Cabaret or other similar entertainment" includes every hotel, restaurant, hall, or other public place at or in which, in connection with the service or sale of food or other refreshment or merchandise, there is conducted any vaudeville or other performance or diversion in the way of acting, singing, declamation, or dancing, either with or without instrumental or other music. Every form of entertainment so conducted is included, except that furnished by orchestras performing instrumental music only, unaccompanied by any other form of entertainment. A hotel, restaurant, or hall affording, in connection with the service of refreshment, food, or merchandise, entertainment in the form of dancing by its patrons is included.

(3) Every person, corporation, partnership, or association conducting any public performance for profit at any cabaret or other similar entertainment to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise, as above defined, shall on or before the 10th day of each month, beginning with December, 1917, make a return under oath in duplicate of the amount of tax collected during the preceding month under the foregoing rulings and shall pay the taxes so collected under the provisions of section 700, clause C, to the collector of internal revenue of the district in which the principal office or place of business of such person, partnership, corporation, or association is located. Such returns shall be made upon forms prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to be obtained from the collector of the district in which they are to be filed.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2604.)

Revised forms of orders for stamps for cigars, tobacco, etc.

Instructions in regard to use by manufacturers of revised forms of orders for stamps for cigars, tobacco, snuff, and cigarettes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 12, 1917.

To collectors of internal revenue:

Forms 168, 172, 173, and 485, revised October, 1917, orders for stamps for cigars, tobacco, snuff, and cigarettes, respectively, have been forwarded to collectors for distribution to manufacturers. The revision of these forms was made necessary by the changes in rates of tax and sizes of packages under the act approved October 3, 1917.

In addition to filling in the order form itself, the coupon attached must be filled in by each manufacturer ordering stamps on and after the latter part of this month (where orders will be filled by collectors on and after January 1 next) and must show the manufacturer's name, his factory number, and the value of the stamps ordered. These coupons must not be detached by the manufacturers. Effective at the same time, manufacturers of cigars and cigarettes will be required to forward a separate Form 168 or 485, order for stamps for each different class of stamps ordered.

Extra copies of this decision will be printed and a supply of same will be forwarded to collectors. They should be placed in the hands of manufacturers of tobacco, snuff, cigars, and cigarettes immediately.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2605.)

Tax on admissions and dues.

Tax due on amount paid for admission to performances occurring and dues for membership period elapsing after October 31, 1917, regardless of the date of payment. Regulations as to payment.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1917.

To collectors of internal revenue and others concerned:

Reference is made to the prior rulings issued from time to time to the effect that the tax imposed by Title VII of the act of October 3, 1917, upon admissions and dues is not applicable to amounts paid prior to November 1, 1917.

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Further consideration of the matter has resulted in the conclusion that the prior rulings referred to were incorrect. It is now ruled that the liability to tax upon any admission or dues depends upon the date of the admission or upon the period for which the dues are paid and not upon the date of the payment. What is taxed is the privilege covered by the payment, not the payment itself, the payment being merely the measure of the tax upon the privilege.

Accordingly, no tax is to be collected under section 700 on any amount paid on or after November 1 for admissions to performances prior to November 1, but, except in respect of such admissions as are expressly exempted from tax under the law, a tax is to be collected in respect of all admissions to performances, entertainments, or places after November 1, notwithstanding the fact that such admission may have been paid for before November 1.

In the case of persons having the use of boxes or seats in an opera house or any place of amusement, or lease for the use of such box or seat in such opera house or place of amusement, a tax shall be collected in respect of every performance hereafter occurring equivalent to 10 per cent of the amount for which a similar box or seat is sold or offered for sale for a performance or exhibition at which the box or seat is reserved by the lessee or holder. In the case of admission by season ticket or subscription, the amount of the tax is equivalent to 1 cent for each 10 cents of the proportion of the amount paid for such season ticket or subscription covering admissions on or after November 1.

On and after December 15 no person shall be admitted to any place to which admission is charged, unless the ticket, card, or pass by which he is admitted bears evidence that the tax due in respect of the admission covered by it has been paid. This evidence shall consist of the printing or stamping upon the ticket, card, pass, or other papers evidencing the right to admission the words "tax paid." Each proprietor of any place to which admission is charged not specifically exempted from taxation by the act must provide himself with such a stamp as may be necessary for this purpose. Such stamp shall be applied to the ticket, card, pass, or other evidence of the right to admission, at the place where it is issued. In case of all tickets, passes, cards, or other evidence of the right to admission issued before November 1 but used after November 1 the ticket, card, pass, or other evidence of the right to admission shall, before the same is used, be "validated" in respect to the tax by collecting the proper tax in respect thereof and stamping the same in accordance with the above requirement.

There shall be kept in each box or ticket office of every theater, place of amusement, or other place to which admissions subject to the tax are charged a daily record of the number and kind of tickets

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sold and the tax collected thereon. Such record shall also show the number of passes used for admission each day and the tax collected thereon and the number of admissions of children under 12 years of age and the tax collected thereon. Each separate class of tickets sold must be so distinctly indicated as to be capable of ready verification by the internal-revenue department. A separate record shall be kept of the number and kind of tickets, cards, passes, or other evidence of right to admission on or after November 1, 1917, paid for or issued prior to November 1 and of the tax collected in respect thereof. The monthly return required to be filed by proprietors of all places to which admission is charged, not expressly exempt from taxation, shall include and cover amounts collected on validation of tickets, passes, cards, or other evidence of the right to admission.

The foregoing regulations as to admissions take effect on December 15, 1917, and all rulings contrary to the above are hereby revoked as of that date.

It is also held that under section 701 the tax must be paid upon all dues representing membership privileges for any time elapsing after October 31, 1917, regardless of the time of payment. Thus, in a case of dues exceeding $12 a year paid for the calendar year 1917, a tax will be due on one-sixth of the full amount paid for such calendar year, irrespective of the date of payment.

Revenue officers should immediately give such publicity to this decision as may be practicable.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2606.)

Personal sureties supported by bonds of the United States.

Internal-revenue bonds may be executed with personal sureties supported by bonds of the United States as collateral security.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1917.

To collectors of internal revenue:

You are hereby advised that in every case in which internal-revenue laws and regulations require a taxpayer to furnish a bond with corporate or personal sureties the taxpayer may give his personal bond, with one or more personal sureties, as required by the statute, supported by a deposit of registered bonds of the United

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States at face value equal to the penal sum of the bond, assigned to "the Commissioner of Internal Revenue." The forms of bonds prescribed in present regulations may be modified to conform with the requirements of this decision.

Where the personal sureties are sufficient it will not be necessary to deposit bonds, but where bonds are deposited as collateral the personal sureties will not be required to qualify on Form 33.

The registered bonds deposited should be forwarded to this office by registered mail for safe-keeping. Upon the cancellation of the bonds given by the taxpayer the bonds forwarded will be reissued in accordance with the instructions of the taxpayer.

Either registered or coupon bonds may be accepted as security for the payment of floor taxes, in accordance with T. D. 2537, T. D. 2554, and T. D. 2557. All other regulations and parts of regulations in conflict herewith are hereby revoked.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2607.)

Use of food materials in the production of distilled spirits.

Regulation governing the use of food materials in the production of distilled spirits promulgated by the Secretary of the Treasury under authority of the food-control act of August 10, 1917, and an Executive order made by the President of the United States on September 2, 1917.

(1) On or after January 1, 1918, no grain other than corn of a quality inferior to the quality of Federal grade No. 6 corn shall be used in the production of distilled spirits for any purpose whatsoever; provided, however, that malted barley or rye that is required for conversion of the starch may be used. Any violation of this regulation will subject the offender to the penalty provided by the statute, to wit, a fine not exceeding $5,000, or imprisonment for not more than two years, or both.

The above regulation promulgated this 17th day of December, 1917.

W. G. MCADOO,
Secretary of the Treasury.

Approved:
WOODROW WILSON.
17 December, 1917

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(T. D. 2608.)

Regulations No. 40, under war-revenue act of October 3, 1917.

Law and regulations relating to the assessment and collection of war-stamp taxes on sales, transfers, and deliveries of shares of stock and like securities, and contracts of sale of products and merchandise upon exchanges for future delivery.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 30, 1917.

LAW.

By an act of Congress approved October 3, 1917, entitled "An act to provide revenue to defray war expenses, and for other purposes," it is provided, among other things:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

TITLE VIII.—WAR STAMP TAXES.

SEC. 800. That on and after the first day of December, nineteen hundred and seventeen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person, corporation, partnership, or association who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule.

SEC. 802. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instruments, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

* * * * * * *

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section eight hundred and four;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

SEC. 803. That whoever—

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article upon which

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any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeit stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, in the discretion of the court, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

SEC. 804. That whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person, corporation, partnership, or association, using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner of Internal Revenue may prescribe such other method for the cancellation of such stamps as he may deem expedient.

SEC. 805. (a) That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

* * * * * * *

(c) All internal-revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

SCHEDULE A.—STAMP TAXES.

SEC. 807. SUBDIVISION 4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock or not, on each $100 of face value or fraction thereof, 2 cents, and where such shares of stock are without par value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of $100 per share, in which case the tax shall be 2 cents on each $100 of actual value or fraction thereof: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not

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actually sold, nor upon such stock certificates so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons who shall make any such sale, or who shall in pursuance of any such sale deliver any stock or evidence of the sale of any stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

Subdivision 5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell, including so-called transferred or scratch sales, any products or merchandise at any exchange, or board of trade, or other similar place, for future delivery, for each $100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional $100 or fractional part thereof in excess of $100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this act, provided that such transfer shall not vest any beneficial interest in such clearing house association, but shall be made for the sole purpose of enabling such clearing house association to adjust and balance the accounts of the members of said clearing house association on their several contracts. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof, as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

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That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

SEC. 1001. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act, and every person, corporation, partnership, or association liable to any tax imposed by this act or for the collection thereof shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

SEC. 1004. That whoever fails to make any return required by this act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this act or fails to collect or truly to account for and pay over any such tax, shall be subject to a penalty of not more than $1,000 or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded or not collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected in any case in which the punishment is not otherwise specifically provided.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

In pursuance thereof, the following regulations are hereby made, prescribed, and promulgated:

PART 1.

Regulations promulgated by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for collection of stamp taxes on sales and transfers of shares of stock and like securities.

DEFINITIONS.

ARTICLE 1. That for the purpose of these regulations, the term "sales or transfers" shall be held to include all sales, agreements to sell, memoranda of sales, and all deliveries or transfers of legal title, except as otherwise specifically provided in these regulations.

That the word "person" or "every person" or similar term whenever used in these regulations shall include the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that a different meaning is intended.

That wherever the word "exchange" is used in these regulations, except as otherwise specifically indicated, it shall be deemed and taken to include each and every agent or agency, auction place or other meeting place at which stocks are publicly bought, sold, bid for, offered, or exchanged, either between the members or patrons of such exchange, or as between members and nonmembers, patrons and the

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public, and it shall include all incorporated and unincorporated associations of individuals, partnerships, and corporations engaged in the business of publicly selling, buying, or exchanging shares of stock or interests therein.

The term "share or shares of stock," when used in these regulations, except as otherwise therein specifically defined, shall be held and taken to mean and include the shares and certificates for shares of stock representing interests in corporations, and in incorporated and unincorporated associations, as well as voting trust certificates for shares, and certificates for shares or interests in shares, "if, as, and when issued," and for "rights" therein.

The terms "clearing house," "clearing house corporation," and "clearing house association," shall be held and taken to mean and include each and every incorporated and unincorporated association of individuals, partnerships, and corporations wholly or partly engaged in the business of clearing, settling, or adjusting transactions in the purchase, sale, receipt, or delivery of shares of stock, whether or not the same be a part or department of an exchange or an independent body.

The act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office, shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person or persons.

REGISTRATION.

ART. 2. Every person, partnership, corporation, exchange, or clearing house engaged in whole or in part in negotiating, making, or recording sales, agreements to sell, deliveries or transfers of shares or certificates for shares of stock, or in conducting or transacting a stock-brokerage business, or in the clearing, settling, or adjusting of any of the transactions referred to in section 807, subdivision 4 of the act, or who shall be engaged in the business of accepting or procuring the transmission of orders for the sale or purchase or transfers of stock to be made or executed at or under the rules or customs of an exchange in the continental United States, shall, on the first day of December, 1917—and if not on that date engaged in business then within ten days after engaging in business, and on the first day of July annually thereafter—file in the office of the collector of internal revenue of the district in which each place of business of such person, partnership, corporation, exchange, or clearing house is located, or with such other internal-revenue officer as may be hereafter designated, a statement, under oath, setting forth the full name or names of such person or persons, and of all the members of such partnership conducting or transacting the business, with the post-

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office address or addresses of such person or persons, or partnership, unless the person so certifying be a corporation, exchange, or clearing house, in which event it shall set forth its principal office or place of business, with the names and addresses of its chief officer, its secretary, accompanied by a list of its members and their addresses, and if incorporated, when and where incorporated, and if not incorporated under what agreement or authority it is conducting such business or agency. Such statement shall also specifically set forth the character of the business to be conducted, and shall be executed and duly acknowledged by the person or persons so conducting or intending to conduct said business, or by the president or secretary of the corporation or exchange or clearing house. Each exchange or clearing house shall also file with said collector or other designated internal-revenue officer a copy of its constitution, charter, agreement of association, by-laws, rules and regulations, and of all amendments thereto, as the same may from time to time be adopted, and the names and addresses of new members as from time to time admitted to membership.

The said statement shall further contain information as to whether the person executing the same has been licensed under any State laws or under any other provision of Federal law; and if so, the dates and places at which any such licenses were issued. Such statements shall be made upon forms to be furnished upon application to the collector of internal revenue.

RECORD OF REGISTRATION KEPT BY COLLECTOR.

ART. 3. Every collector or other designated internal-revenue officer shall file and preserve each statement of registration made to him in accordance with these regulations, and shall issue to such person, partnership, exchange, clearing house, or corporation a certificate of registry, showing the date of issue, the name of the person or persons, or exchange, clearing house, or corporation, conducting the business, the nature of the business for which the license is granted, and the date of expiration of said registry, which certificate shall be signed by the collector or other designated internal-revenue officer, and shall be posted in some prominent place in the office of said person, partnership, exchange, clearing house, or corporation during the period for which issued. If such business is conducted at more than one place, a certificate shall be so posted in each such place of business.

RATE OF TAXATION.

ART. 4. In the case of shares or certificates of stock having a face (or par) value, the amount of the tax shall be based upon the total face value of the shares involved in any sale or agreement to sell or memorandum of sale, delivery, or transfer, and shall be at the

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rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. Thus where the total face value of the shares or certificates of stock, agreement to sell, or memorandum of sale involved in any such transaction is less than $100, the amount of such tax shall be 2 cents; where the total face value exceeds $100 but is $200 or less, the amount of such tax shall be 4 cents, and on all fractions of $100 of face value, the tax shall be 2 cents; and where such shares of stock are without face (or par) value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of $100 per share, in which case the tax shall be 2 cents on each $100 of actual value or fraction thereof.

TRANSACTIONS NOT TAXABLE.

ART. 5. No tax is imposed upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold or intended to be sold nor as to which there is no change of ownership or interest nor upon such stock certificates so deposited.

Nor upon deliveries or transfer to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased the same, provided such deliveries or transfers shall be accompanied in each case by a certificate setting forth the facts, such certificates to be substantially in the following form:

(*a*) (In the case of a transfer to a broker)—

> "We hereby certify that we have no ownership, or interest, in * * * shares of the stock above transferred, the transfer by the owner to us being merely for the purpose of sale."

(*b*) (In the case of a transfer by a broker)—

> "We hereby certify that the transfer of * * * of the within shares to the names indicated by the star is made solely to complete the purchase made by us for our customer, and we have no ownership or interest therein."

No broker who has filed a certificate under the foregoing clause (*a*) of this ruling shall file a certificate under the foregoing clause (*b*) with reference to the transfer of any shares of stock covered by the certificate filed by him under clause (*a*).

Nor upon transfers or deliveries to a clearing house for the sole purpose of clearing or adjusting accounts between members, where no beneficial interest is vested in said clearing house or clearing association and there has been no change of title or interest: *Provided*, The exchange shall by appropriate by-laws or regulations require from its members that all transactions of such members

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in shares of stock be promptly reported to such clearing house to the end that the stamp taxes thereon may be collected and that no other clearances or settlements or trading in balances shall be permitted. All transactions, actual or otherwise, except as in the act are exempt, shall be subject to the tax.

No provision, by-law, rule, or custom of any exchange, or similar institution, inconsistent with any requirement or provision of the act or any regulations thereunder, nor any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such sales or transfers, or the settlement or fulfillment thereof, which is inconsistent or in conflict with any requirement of said act or of these regulations, shall exempt any person from the payment of the tax provided for under said act.

DELIVERY OF MEMORANDUM OF SALES.

ART. 6. Every person who makes sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of the legal or beneficial title to shares of stock, at, in or on any exchange or similar place of business, and every person who makes any agreement to sell stock or makes a transfer of stock by delivery of the certificate therefor assigned in blank, shall as a part of every such transaction, promptly make and deliver to the buyer a bill, or memorandum of sale, or agreement to sell, duly signed by the principal or his agent, which shall show the date of the transaction evidenced by it, the names of the seller and buyer, the shares of stock to which it relates, the number of shares and the price per share of said stock, and shall bear a number upon the face thereof. No more than one such bill or memorandum made by the seller on any given day shall bear the same number: *Provided, however*, That no single transaction of a purchase or sale that is made upon an exchange by one member for another member shall require to be evidenced by more than one stamped memorandum of sale or agreement to sell.

AFFIXING AND CANCELLATION OF STAMPS.

ART. 7. In case the transfer is effected by delivery of the certificate of stock assigned in blank the stamp shall be affixed to the bill, memorandum, or agreement to sell.

In case the change of ownership is by transfer of the certificate of stock, the stamp shall be affixed to the certificate, and in no event shall any company or registrar or transfer agent accept or transfer any shares of stock or certificates therefor unless stamps for all transfer tax required to be affixed to the certificate are attached thereto properly canceled.

In case the evidence of the transfer is shown only by the books of the company the stamp shall be placed upon the books.

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In all other cases the payment shall be evidenced by affixing the stamp upon the memorandum or agreement of sale to be delivered by the seller to the buyer.

The person using or affixing a stamp shall write or stamp thereon, in ink, his initials and the day, month, and year on which the same shall be used or affixed, or shall by cutting or cancelling said stamp with a machine or punch affixing his initials and date as aforesaid, so deface the stamp as to render it unfit for reuse. In addition to the foregoing, stamps of the value of 10 cents or more shall have three parallel incisions made by some sharp instrument lengthwise through the stamp after the same has been attached to the bill, memorandum, or other evidence of sale or transfer of stock, provided this will not be required where stamps are canceled by perforation. The cancellation by either method should not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

RECORDS OF SALES OR TRANSFERS OF STOCK.

ART. 8. All persons who are wholly or partly engaged in the business of buying, selling, or transferring shares of stock, whether at public or private sale, or whether or not they are members of an exchange, including persons engaged in transactions known as "matched," or "on-order," or "pass-outs," or by any other name or term at, on, or in any exchange or similar place, whether or not such transactions are cleared, adjusted, or settled through a clearing house or directly between seller and buyer, or otherwise, shall keep a record showing—

(a) The date of the transaction.
(b) The name of the seller or transferror.
(c) The name of the purchaser or transferee.
(d) If the order was executed on an exchange, the name of the person who executed the order.
(e) Whether the transaction is a purchase or sale.
(f) The name of the corporation the stock of which is the subject of the sale and the number of shares thereof.
(g) Whether the stock was listed on an exchange.
(h) Whether the stock was cleared through a clearing house.
(i) The face or par value of the stock.
(j) The price of the stock if there is no face or par value.
(k) Whether the shares were borrowed or loaned.
(l) Whether the transaction was "matched," "on-order," a "pass-out," or a "scratched sale," or any other kind of sale or purchase.
(m) The amount of tax paid.

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(n) The identifying number of the bill or memorandum of sale, as required by article 6 of these regulations.

(o) The origin of the order, whether domestic (referring to the Continental United States), or foreign (referring to other countries).

Persons using such forms may incorporate therein additional columns that would be of use to them, such columns to be placed after the columns containing the information herein required, so as not to interfere with the columns and headings hereby prescribed. These records must be in book form, and all entries therein must be legibly written in ink and the records kept for a period of at least two years. Such record forms will not be supplied by the department.

The form of record required shall be as follows:

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Form A.

.....
(Name and address of person keeping the record.)

SALES (DELIVER.) (a) **[Clearing-House Transactions.]**

Date.	Line number. (b)	Name of person who executed order.	To whom sold. (c)	Number of shares.	Description of stock.			Shares having face (or par) value.					Price at which sold or transferred.	Amount (or total market value).			Tax paid on shares of no face (or par) value. (d)	Name of customer.	Origin of order.		Settlements or adjustments.							
					Name.	Listed.	Unlisted.	Face (or par) value per share.	Total face (or par) value.		Fractions of hundreds ($100) of dollars.	Cents.	Tax paid on total face (or par) value. (e)			Fractions of hundreds ($100) of dollars.	Cents.		Domestic.	Foreign.	Deliveries.			Set-off.		Other methods.		
																					Loaned. (f)	"Borrowed" shares returned. (g)	Shift of customer's account.	Balance.	"Matched trades" or "On order" or "Pair-off."	Other than "Matched trades."		
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This record to be preserved for a period of at least two (2) years.
The reverse side of this sheet is for "Purchases (receive)"; therefore make the captions, headings, etc., on the "Purchase" side to conform, viz:
(a) The words "Purchases (receive)," in lieu of "Sales (deliver)."
(b) The numbers in this column on the "Sales" side shall run from 51 to 100, inclusive: and on the "Purchase" side from 1 to 50, inclusive."
(c) The words, "From whom bought," in lieu of "To whom sold."
(d) and (e) The filling in of these two columns on the "Purchase" side is optional.
(f) The word, "Borrowed," in lieu of the word "Loaned."
(g) The words, "Loaned shares returned," in lieu of the words, "Borrowed shares returned."

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Form B.

.....
(Name and address of person keeping the record.)

SALES (DELIVER) (a). **[EX-CLEARING-HOUSE TRANSACTIONS.]**

Date.	Line number (b).	Name of person who executed order.	To whom sold (c).	Number of shares.	Description of stock.			Shares having face (or par) value.				Price at which sold or transferred.	Amount (or total market value).		Tax paid on shares of no face (or par) value (e).	Name of customer.	Origin of order.		Settlements or adjustments.									
									Total face (or par) value.										Deliveries.									
					Name.	Listed.	Unlisted.	Face (or par) value per share.		Fractions of hundreds ($100) of dollars.	Cents.	Tax paid on total face (or par) value (d.)		Fractions of hundreds ($100) of dollars.	Cents.		Domestic.	Foreign.	Loaned (f).	"Borrowed" shares returned (g).	Shift of customer's account.	Balance.	"Matched trades" or "on order" or "Pair-off."	"Direct settlements," "Off-set," or "Set-off."	"Scratched" or "transferred," or "pass-outs."	Brokerages.	Clearances.	Other methods.
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This record to be preserved for a period of at least two (2) years.

The reverse side of this sheet is for "Purchases (receive)"; therefore make the captions, headings, etc., on the "Purchase" side to conform, viz:

(a) The words "Purchases (receive)," in lieu of "Sales (deliver.)"
(b) The numbers in this column on the "Sales" side shall run from 51 to 100, inclusive; and on the "Purchase" side from 1 to 50, inclusive.
(c) The words, "From whom bought," in lieu of "To whom sold."
(d) and (e) The filling in of these two columns on the "Purchase" side is optional.
(f) The word, "Borrowed," in lieu of the word "Loaned."
(g) The words, "Loaned shares returned," in lieu of the words, "Borrowed shares returned."

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RETURNS BY PERSONS MAKING SALES.

ART. 9. All persons who are wholly or partly engaged in the business of buying, selling, or transferring shares of stock at, in, or on an exchange, whether or not such sales, purchases, or transfers shall be made, cleared, settled, or adjusted through a clearing house; shall on or before the fifteenth day of each month, and at any other time or times that may be designated by the Commissioner of Internal Revenue, render under oath a true return of all such sales and purchases to said commisioner for the preceding month or for any other period designated by the commissioner, containing in detail the following data and information:

(a) The month for which the return is made.

(b) The name and address of the person, partnership, corporation, or association making the return.

(c) The number of shares of stock sold and purchased on such exchange and cleared by its clearing agency or association.

(d) The number of shares of stock sold and purchased on such exchange that were not cleared by its clearing agency or association.

(e) In respect of shares having a face (or par) value:

(1) The aggregate face value of all shares, not including any fraction of less than $100 of face value involved in any transaction.

(2) The number of fractions of less than $100 of face value involved in all transactions.

(f) In respect of shares having no face (or par) value:

(1) As to such shares of an actual value in excess of $100 per share—

(A) The aggregate actual value of all shares, not including any fraction of less than $100 involved in any transaction.

(B) The number of fractions of less than $100 involved in all transactions in such shares.

(2) As to such shares of an actual value of $100 or less per share—

(A) The total number of such shares.

(g) As to shares purchased, the same information and detail required for shares sold, transferred, and delivered required under (e) and (f) for shares sold, transferred, or delivered.

(h) The number of shares of stock borrowed.

(i) The number of shares of stock loaned.

(j) The number of shares of loaned stock returned.

(k) The number of shares of borrowed stock returned.

(l) The amount of tax paid.

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(m) The amount in dollars of stamps purchased during the month.

(n) The amount in dollars of stamps on hand on the last day of the month for which return is being made.

Such returns shall be made upon forms furnished upon application by the internal revenue collector or other designated officer.

The Commissioner of Internal Revenue may, from time to time, require any person wholly or partly engaged in the business of buying, selling, or transferring shares of stock, whether at public or private sale, and whether or not such sale shall be made on an exchange or cleared, settled, or adjusted through a clearing house to render under oath returns of all such transactions upon forms prescribed by him.

RETURNS BY CLEARING HOUSES.

ART. 10. Every clearing house or committee or body through or by which clearing is done shall, on or before the fifteenth day of each month, and at any other time designated by the Commissioner of Internal Revenue, render in writing under oath to the Commissioner of Internal Revenue a return for the preceding month, or for any other period that may be designated by the commissioner, of all facts in their possession relating to any and all such transactions, and showing in detail:

(a) The month for which return is made;

(b) The name and address of the clearing house or similar business, agency, or institution making the return; and

(c) The number of shares of stock directed to be received and the number of shares of stock directed to be delivered and cleared, settled, or adjusted for each member during the month or period for which the return is made.

Such return shall be made upon the forms to be furnished upon application by the collector of internal revenue or other designated officer.

If any person who negotiates sales or transfers of stock on a stock exchange, shall appoint in writing the clearing house for such exchange upon which such sale or transfers are made, if any, his agent for the purposes hereinafter indicated, such clearing house being approved by the Commissioner of Internal Revenue, and shall make a written return, statement or sheet, to such clearing house containing a full disclosure on each business day of all such transactions, both such as are clearable and non-clearable, of the preceding day in shares of stock that are listed or permitted to be dealt in by such member on such exchange, also which if any of such stocks are loaned or borrowed, then in that event such return, statement, or sheet delivered to the clearing house shall be deemed to be the

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bill, or memorandum of sale, or agreement to sell, required under section 807, subdivision 4, of the act approved October 3, 1917, and such clearing house is hereby authorized to affix to such return, statement, or sheet the amount of stamps required for each sale or agreement to sell or memorandum of sale for delivery or transfer of such stock indicated thereon, and to cancel the stamp so affixed. The affixing and cancellation of such stamps by the clearing house shall be held to be that of the person making such sale or agreement to sell, or memorandum of sale, for delivery or transfer of such stock. The returns, statements, or sheets made to the clearing house shall in respect of each sale show the date thereof, the name of the seller, the name of the buyer, the amount of the sale, and the name of the stock, certificates, voting shares, or other things traded in, but a return for more than one sale may be upon the same return, statement, or sheet, and no settlement of differences or other dealings between members shall be permitted that will interfere with the full disclosure of the whole transaction.

Said clearing house shall preserve the returns, statements, or sheets so made and stamped for at least two years.

But such return, statement, or sheet to the clearing house shall not relieve the person from making the monthly return required by these regulations.

Wherever any clearing house association or similar body carries upon its sheets or records information or reports of transactions showing the transfer by one of its members of an account of a customer without change of ownership of the securities of the customer, there shall be kept by the members of such clearing house or body concerned in such transaction, a record showing the particulars of such transaction.

SUBSTITUTE RETURNS—AGENTS.

ART. 11. If any person or clearing house required to make any return by law, or the regulations thereunder, shall fail or refuse to make such return within the time prescribed, such return may be made by an internal revenue officer, upon inspection of the books and papers of the person or clearing house required to make such returns; but the making of such return by an internal revenue officer shall not relieve the person or clearing house in default from any penalty incurred by reason of the failure to make such return.

Any officer designated by the Commissioner of Internal Revenue shall have authority to examine the books, papers, and records kept pursuant to these regulations and may require the production of any other books, records, papers, or statements of account, necessary to

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determine any liability to the tax imposed by the act, or to the observance of the provisions of the regulations made in accordance therewith.

SALE OF STAMPS.

ART. 12. No person other than a collector of internal revenue, or duly authorized deputy collector of internal revenue, an Assistant Treasurer, or other United States designated depositary shall sell or expose for sale, give away, traffic in, trade, barter, lend, borrow, or exchange any stamp, issued pursuant to these regulations. No person shall buy or receive any such stamps or have the same in his possession or under his control, unless such stamps have been purchased directly from the collector of internal revenue, Assistant Treasurer, or other United States designated depositary, in the district in which the stamps are to be used.

All requisitions for stamps to be used under these regulations, shall be made in writing, in ink, on a form prescribed by the Commissioner of Internal Revenue, to the collector of internal revenue, or to an Assistant Treasurer, or other designated depositary, in the internal-revenue district in which the stamps are to be used, giving the date thereof, the number and denomination of stamps applied for, and the name and address of the purchaser, and shall be signed in ink by the person receiving the stamps.

The collector of internal revenue to whom such requests are made shall keep a record thereof, and shall keep the requisitions separate and apart from all other requisitions for stamps, and preserve them in his office for a period of two years. Any Assistant Treasurer or designated depositary of the United States, receiving requisitions for such stamps shall keep a record of each such requisition and at the end of each month shall file such requisitions with his monthly report to the collector of internal revenue of the district in which said Assistant Treasurer or other designated depositary is located.

The stamps to be used under these regulations shall be of such kind and color as are prescribed by the Commissioner of Internal Revenue.

NOTE.

For the provisions as to fines and penalties applying particularly to violations or attempted evasions of the act or of these regulations, reference is made to sections 802, 803, 807, subdivisions 4 and 5, and 1004 of the "Act to provide revenue to defray war expenses and for other purposes," approved October 3, 1917. The provisions of the internal-revenue laws of the United States, so far as applicable, including sections 3173, 3174 and 3175, of the Revised Statutes, as amended, apply to said act.

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PART 2.

Regulations promulgated by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for the collection of stamp taxes upon sales of products or merchandise on exchanges for future delivery.

DEFINITIONS.

ART. 1. That for the purposes of these regulations the term "sale" or "contract of sale" shall be held to include all sales, or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales."

The word "person" or "every person," or similar term, whenever used in these regulations, shall include the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that a different meaning is intended.

The word "exchange" as used in these regulations, except as otherwise specifically indicated in the regulations, shall be deemed and taken to include each and every agent or agency, auction place, or other meeting place at which produce or merchandise for future delivery is publicly bought, sold, bid for, offered, or exchanged, or contracts for such future delivery are made, either between the members or patrons of such exchange, or as between members and nonmembers, patrons, and the public, and it shall include all incorporated and unincorporated associations of individuals, partnerships, and corporations engaged in the business of publicly selling, buying, or exchanging products or merchandise for future delivery.

The term "clearing house" shall be held to mean each and every clearing-house corporation, clearing-house association, or incorporated and unincorporated association, carried on for the purpose of clearing, settling, and adjusting transactions in purchasing, selling, receiving, or delivering products or merchandise, whether such clearing house be a part or department of an exchange or an independent body.

The act, omission, or failure of any official, agent, or other person acting or employed by any person, association, partnership, or corporation, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such person, association, partnership, or corporation.

REGISTRATION.

ART. 2. Every person engaged in whole or in part in making contracts of sale of any product or merchandise or commodity at, on, or in, or under the rules or customs of any exchange for future delivery,

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or engaged in the business of accepting or procuring the transmission of such contracts of sale, to be executed on any exchange, and every exchange and every clearing house shall, on the first day of December, 1917, and if not on that date engaged in business, then within ten days after engaging in business, and on the first day of July annually thereafter file in the office of the collector of internal revenue of the district in which each place of business of such person, exchange, or clearing house is located, or with such other internal-revenue officer as may be hereafter designated, a statement under oath setting forth the full name of such person, if an individual, and if a partnership the full names of all the members of such partnership, with the post-office address of the individual or partnership; and if the person filing such statement be a corporation or association it shall set forth its principal office or place of business with the names and addresses of its chief officer and its secretary, accompanied by a list of its members and their addresses, and if incorporated when and where incorporated, and if unincorporated, under what agreement or authority it is conducting business, together with a copy of such agreement. Statements filed in behalf of any corporation, association, exchange, or clearing house shall be executed and duly acknowledged by the president or secretary thereof. Every statement filed by an exchange or clearing house shall specifically set forth the character of the business conducted or intended to be conducted. Each exchange and clearing house shall also file with the said collector or other designated internal-revenue officer a copy of its constitution, charter, agreement of association, by-laws, and regulations, and all amendments thereto, as the same may from time to time be adopted, and the names and addresses of new members as from time to time admitted to membership.

The statements required by these regulations shall be made upon forms to be prescribed by the Commissioner of Internal Revenue.

RECORDS AND CERTIFICATES.

ART. 3. Every collector of internal revenue or other designated internal-revenue officer shall file and preserve each statement or registration made to him in accordance with these regulations, and shall issue to the person making such statement a certificate of registry showing the date of issue, the name of the person, the nature of the business for which the certificate is granted, and the date of the expiration of the registration, which certificate shall be signed by the collector or other designated internal-revenue officer, and shall at all times during the period for which it is issued be posted in some prominent place in the office of the person receiving it. If the business of such person is conducted at more than one place, a certificate shall be so posted in each such place of business.

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TRANSACTIONS NOT TAXABLE.

ART. 4. No tax is imposed on cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered. All sales at an exchange for future delivery are subject to the payment of the tax.

For the purpose of these regulations "immediate or prompt delivery" shall mean delivery at once or as soon as practicable, and in any event within twenty days of the date of the sale or agreement. Every sale or agreement not evidenced by a memorandum or contract expressly requiring immediate or prompt delivery within the above definition shall be deemed to be for future delivery. In all cases in which the commissioner is not satisfied from the evidence submitted to him that the transaction was in good faith intended to be followed by immediate or prompt delivery, within the above definition, the seller shall be required to pay the tax as on a sale for future delivery.

Sellers of products, merchandise, or commodities having paid the tax provided by law may transfer such contracts to a clearing-house association, and such transfer shall not be deemed to be a sale, or agreement of sale, or agreement to sell, within the provisions of the act, provided that such transfer does not vest any beneficial interest in the clearing-house association and is made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of said clearing-house association on their several contracts.

No provision, by-law, rule, or custom of any exchange, board of trade, or similar institution or place of business which is inconsistent or in conflict with any requirement or provision of the "Act to provide revenue to defray war expenses, and for other purposes," approved October 3, 1917, or any regulations thereunder, nor any collateral, or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract or the settlement or fulfillment thereof, which is inconsistent or in conflict with any requirement of said act or the regulations thereunder promulgated by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall exempt any person from the payment of the tax provided for under section 807, subdivision 5, of said act.

MEMORANDA OF SALES.

ART. 5. Every person who makes sales or contracts of sale of any product, merchandise, or commodity at, on, or in any exchange for future delivery, shall, except as herein otherwise expressly provided, deliver to the buyer a bill, memorandum, agreement, or other evidence of such sale or agreement of sale, which shall show the date thereof, the name of the seller, the name of the purchaser, the product, merchandise, or commodity, the quantity thereof to which

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it refers, the price, the aggregate amount of the sale, and the amount of the tax to be paid, to which bill, memorandum, agreement, or other evidence of sale there shall be affixed a lawful stamp or stamps in value equal to the amount of tax on such sale.

No single sale or contract of sale that is made upon an exchange by one member for another shall require to be evidenced by more than one such stamped memorandum.

If any person making contracts of sale for future delivery of any products or merchandise at, in, or on any exchange shall in writing appoint the clearing house for the exchange upon which such sales are made his agent for the purposes hereinafter indicated, such clearing house being approved by the Commissioner of Internal Revenue, and shall make a written return or sheet of each such sale to such clearing house in accordance with these regulations, the return or sheet of the person to the clearing house shall be deemed to be the bill, memorandum, or agreement of sale required to be delivered by the seller to the buyer, and the clearing house is hereby authorized to affix to such return or sheet the amount of stamps required for each contract of sale indicated thereon, and to cancel the stamps so affixed; the affixing and cancellation of such stamps by the clearing house to be held to be that of the person making such contracts of sale. The return or sheet of sales so made to the clearing house shall in respect of each sale set forth the date, the name of the seller, the name of the purchaser, the amount of the sale, and the matter or things to which it refers, but a return for more than one sale may be made upon the same paper or sheet. The clearing house shall preserve for a term of not lsss than two years each return or sheet made to it by any person under the foregoing regulations.

Every clearing house so acting shall include in the monthly return to the Commissioner a statement of the amounts of stamps so affixed and canceled for each person. The making of such return by the clearing house shall not relieve the person making such sales from making the monthly return of his transactions required by these regulations.

The person using or affixing stamps shall write or stamp thereon in ink his initials and the day, month, and year on which the same shall be used or affixed, or shall, by cutting and canceling the stamp with a machine or punch affix his initials and date as aforesaid, so deface the stamp as to render it unfit for reuse. In addition to the foregoing, stamps of the value of 10 cents or more shall have three parallel incisions made by some sharp instrument lengthwise through the stamp after the same has been attached to the document: *Provided*, This will not be required where stamps are canceled by perforation. The cancellation by either method should not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

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RECORDS BY SELLERS AND BUYERS.

ART. 6. All persons who make sales or contracts of sales, including so-called "transferred or scratch sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise at, on, in, or under the rules, or customs of any exchange for future delivery shall keep a record showing:

(a) Date when contract was made.
(b) Name and address of the other party to the contract.
(c) Name of person executing the contract.
(d) Whether the transaction is a purchase or sale.
(e) Quantity of product, merchandise, or commodity involved; whether in tons, pounds, bales, bushels, bags, mats, barrels, gallons, or other unit of measure or weight, as the case may be.
(f) Name of product, merchandise, or commodity, including (if not a basis grade contract) grade, type, sample, or description.
(g) Name of customer.
(h) Whether the contract is a "basis grade" contract.
(i) Time specified in contract for delivery.
(j) Specified price per ton, pound, mat, bale, bag, bushel, barrel, gallon, or other unit of measure or weight, as the case may be.
(k) Gross amount of sale or purchase.
(l) Amount of tax paid.
(m) Whether the order for sale or purchase was of domestic (meaning the continental United States) or foreign origin (meaning from countries other than the continental United States).
(n) Date of delivery or settlement.
(o) Method of fulfillment or settlement.

Persons who use such forms may incorporate additional columns which would be of use to them, such columns to be placed in such positions as not to interfere with the columns and headings prescribed. Such record forms will not be supplied by the department.

The records required by these regulations shall be legibly written in ink and kept separate in books, and contracts of sale for future delivery of two or more distinct products or merchandise shall be kept separate. Any person who executes or makes such contracts of sale shall preserve the trading cards, memoranda, or slips of each transaction, and the purchaser shall preserve the bill, memorandum, or evidence of sale to which the stamps are affixed, for the period of two years.

The form of the record required by these regulations shall be as follows:

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Form C.

.....
(Name and address of person keeping record.)

SALES OF..... **FOR**....., **191..., DELIVERY.**
(Name of product or commodity.) (Month or time.)

.....
(State whether "basis-grade" contract, "deferred-acceptance" contract, or whatever name or term.)

The contracts here recorded were made on the.....
(Name of exchange or board of trade.)

Date.	Name of person who executed contract.	To whom sold (Name and address).	Quantity.	Price.	Gross value.	Tax paid.	Customer.	Origin of order.		Settlements or adjustments.																
								Domestic.	Foreign.	Date.	Delivered (notices issued).	Transferable notices passed.	Clearing house.	Rings.	Direct settlements, "offsets," "set-offs."	"Pair-offs", "matched," or "crossed" trades.	"Scratched," "transferred," or "passouts."	"Give ups."		"Deferred acceptance."		Other methods.		
																		Brokerages.	Clearances.	Date option expired.	Date option exercised.			
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
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In cases where contracts are made on description (not basis-grade contracts) an additional column headed "Grade, type, or sample" must be inserted between the columns headed "Quantity" and "Price."

The columns headed "Deferred acceptance" are to be printed only on the pages or sheets that are to be used exclusively for recording "Deferred-acceptance" contracts.

The form of record for purchases shall be the same as above except that the necessary change in headings, etc., must be made, and the column headed "Tax paid" may be omitted.

These records must be preserved for a period of not less than two (2) years.

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RECORDS TO BE KEPT BY CLEARING HOUSES.

ART. 7. All persons who act in the capacity of a clearing house or clearing association shall keep a record showing:

(a) Name of person for whom each contract is cleared.
(b) Date when contract was made.
(c) Whether the transaction is a purchase or sale.
(d) Quantity of product, merchandise, or commodity involved, whether in tons, pounds, bales, bushels, bags, mats, barrels, gallons, or other unit of measure or weight, as the case may be.
(e) Name of product, merchandise, or commodity, including (if not a basis-grade contract) grade, type, sample, or description.
(f) Whether the contract is a basis-grade contract.
(g) Time specified in contract for delivery.
(h) Date of settlement.
(i) Method of settlement.

Records of sales for future delivery of two or more distinct products or merchandise must be kept separate.

RETURNS BY MEMBERS OF EXCHANGES.

ART. 8. All persons who make contracts of sale of any commodity, product, or merchandise, at, on, or in any exchange, board of trade, or other similar place of business, for future delivery, whether such contracts shall be cleared and adjusted through a clearing house, or clearing association, or directly between the seller and buyer, or otherwise, shall on or before the fifteenth day of each month, and at any other time required by the Commissioner of Internal Revenue, make return, in writing, to the Commissioner of Internal Revenue, or some officer designated by him, for the preceding month or any other period, verified before some officer authorized to administer oaths, showing:

(a) The number of contracts of sale and purchase of each product, merchandise, or commodity brought forward from the preceding month.
(b) The number of contracts of sale and purchase of each product, merchandise, or commodity during the current month.
(c) The month in which the products, merchandise, or commodity is to be delivered.
(d) The method of settlement of each contract, i. e. whether by "actual delivery," "notice," "ring," "direct," "transfer," or "scratch sale," "pair off," or "matched," "pass out," "set-off," "give up," through a clearing house or clearing association, or otherwise.

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(e) The gross amount of the contracts of sale.
(f) The tax paid thereon.
(g) The number of contracts both of purchase and sale left open at the end of the month.
(h) The amount of stamps on hand from preceding month.
(i) The amount of stamps purchased during month.
(j) The amount of stamps used during month.
(k) Balance of stamps on hand at end of month.
(l) The origin of the order of the contracts, whether domestic or foreign.

Such returns shall be made upon forms to be furnished, upon application, by the collector of internal revenue, or other designated officer of the district in which the exchange, board of trade, or other similar place is located.

RETURNS BY CLEARING HOUSES.

ART. 9. Every clearing house, or clearing association, shall on or before the 15th day of each month, and at any other time required, render in writing, under oath, a return, for the preceding month or for any other period designated, to the Commissioner of Internal Revenue of all facts in their possession showing:

(a) The number of contracts "long" and "short" for each member brought forward from the preceding month.
(b) The number of contracts bought or sold by each member of the association.
(c) The number of tons, pounds, bales, bushels, bags, mats, barrels, or gallons, or other units of weight or measure involved in such constracts, as the case may be.
(d) The month in which such product, merchandise, or commodity is to be delivered.
(e) The method of settlement of said contracts—i. e., whether by "set-off," "notice," or "delivery," or by any other method.
(f) The number of open contracts "long" and "short" for each member carried to the following month.

Such returns shall be made upon forms to be furnished, upon application, by the collector of internal revenue of the district, or other designated officer, in which the clearing house or clearing association is situated.

FAILURE TO MAKE RETURNS—AGENTS.

ART. 10. If any person, or clearing house or clearing association, required to make returns by this act, or the regulations thereunder, shall fail, or refuse to make any return within the time prescribed in these regulations, or designated by the Commissioner of Internal Revenue, then the same shall be made by an internal-revenue officer, upon inspection of the books and papers of the person, or clearing

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house, or clearing association, so required; but the making of said return by an internal-revenue officer shall not relieve the person in default, from any penalty incurred by reason of his failure to make such return.

Any officer designated by the Commissioner of Internal Revenue shall have authority to examine the books, papers, and records kept pursuant to these regulations, and may require the production of any other books, records, papers, or statements of account, necessary to determine any liability to the tax imposed by this act, or the observance of the provisions of the regulations made in accordance therewith.

SALE OF STAMPS.

ART. 11. No persons other than a collector of internal revenue, or duly authorized deputy collector of internal revenue, assistant treasurer, or designated depositary of the United States, in the district in which is located an exchange, shall sell or expose for sale, traffic in, trade, barter, or exchange any stamp required by law or by these regulations to be used for the payment of taxes upon sales or contracts of sale of any product or merchandise for future delivery.

All requisitions for such stamps shall be made in writing on a form prescribed by the Commissioner of Internal Revenue to the collector of internal revenue, an assistant treasurer, or designated depositary in the internal-revenue district in which the stamps are to be used, giving the date thereof, the number and denomination of stamps applied for, and the name and address of the purchaser, and shall be signed in ink by the person receiving the stamps. If the requisition for such stamps shall be made to any assistant treasurer or designated depositary of the United States, such assistant treasurer or designated depositary shall keep a record thereof, and at the end of each month shall file such requisitions with his monthly report with the collector of internal revenue of the district in which said assistant treasurer or designated depositary is located. The collector of internal revenue shall keep the requisitions for such stamps made to him and those filed by such assistant treasurer or designated depositary separate and apart from all other requisitions for stamps and preserve them in his office for a period of two years.

The stamps shall be of a color and design prescribed by the Commissioner of Internal Revenue.

NOTE.—FINES AND PENALTIES—ENFORCEMENT.

For the provisions as to fines and penalties applying particularly to violations or attempted evasions of the act or of these regulations reference is made to sections 802, 803, 807, subdivision 5, and 1004 of the "Act to provide revenue to defray war expenses, and for

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other purposes," approved October 3, 1917. The provisions of the internal-revenue laws of the United States, so far as applicable, including sections 3173, 3174, 3175, of the Revised Statutes, as amended, apply to said act.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2609.)

Income and excess-profits taxes.

Regulations concerning inventories of merchandise, etc., and of securities held by dealers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 19, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

(1) For the purposes of income and excess-profits tax returns, inventories of merchandise, etc., and of securities will be subject to the following rules:

A. Inventories of supplies, raw materials, work in process of production, and unsold merchandise must be taken either (*a*) at cost or (*b*) at cost or market price, whichever is lower, provided that the method adopted must be adhered to in subsequent years, unless another be authorized by the Commissioner of Internal Revenue.

B. A dealer in securities who, in his books of account, regularly inventories unsold securities on hand either (*a*) at cost or (*b*) at cost or market price, whichever is lower, may, for purposes of income and excess-profits taxes, make his return upon the basis upon which his accounts are kept; provided that a description of the method employed shall be included in or attached to the return, that all the securities must be inventoried by the same method, and that such method must be adhered to in subsequent years, unless another be authorized by the Commissioner of Internal Revenue.

C. Gain or loss resulting from the sale or disposition of assets inventoried as above must be computed as the difference between the inventory value and the price or value at which sold or disposed of.

(2) In all other cases inventories must be taken at cost or at value as of March 1, 1913, as the case may be.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2610.)

Excess-profits tax.

Construction of terms "tangible property" and "intangible property" as used in section 207, war-revenue act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

The term "other intangible property" as used in section 207 will be construed to mean property of a character similar to good will, trademarks, and the other specific kinds of property enumerated in the same clause. With respect to property not clearly of such a character, rulings will be issued as occasion may demand to indicate whether it shall be regarded as tangible or intangible.

To date the following classes of property have been construed to be tangible property within the meaning of section 207: Stocks bonds, bills and accounts receivable, notes and other evidences of indebtedness.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2611.)

Excess-profits tax.

Salary allowances in the case of partnerships and of individuals engaged in trade or business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

(1) In computing net income for purposes of the excess-profits tax a partnership will be allowed to deduct as an expense reasonable salaries or compensation paid to individual partners for personal services actually rendered during the taxable year, if the payments are made in accordance with prior agreements and are properly recorded on the books of the partnership. In no case shall the salaries or compensation so deducted be in excess of the salaries or compensation customarily paid for similar services under like responsibilities by corporations engaged in like or similar trades or businesses.

With respect to any period prior to March 1, 1918, where no previous agreement has been made as to salaries or compensation a similar deduction will be allowed for services actually rendered.

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In the case of a foreign partnership the deduction shall be limited to those portions of salaries or compensation which are paid for services rendered with respect to trade or business carried on in the United States.

A partner in his individual capacity is, however, subject to the excess-profits tax, if any, at the 8 per cent rate under section 209 with respect to any salary or compensation from the partnership for personal services (including any amounts allowed to the partnership as a deduction for the period prior to March 1, 1918).

(2) An individual carrying on a trade or business having an invested capital may designate a reasonable amount as salary or compensation for personal service actually rendered by him in the conduct of such trade or business. In no case shall the amount so designated be in excess of the salaries or compensation customarily paid for similar service under like responsibilities by corporations or partnerships engaged in like or similar trades or businesses.

In the case of a nonresident alien individual, the amount shall be limited to that portion of the salary or compensation which is for service rendered with respect to trade or business carried on in the United States.

An individual is, however, subject to the excess-profits tax, if any, at the 8 per cent rate under section 209 with respect to the amount so designated, and the balance of the income derived from such trade or business shall be subject to the graduated rates prescribed in section 201.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2612.)

Excess-profits tax.

Individual partners nontaxable as to shares in partnership profits, but taxable as to salaries received from partnership.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

A partner in his individual capacity will not be considered as engaged in trade or business with respect to his share in the profits of the partnership, and consequently will not be subject to excess-profits tax thereon. He is, however, subject to the excess-profits tax, if any, at the 8 per cent rate under section 209 with respect to any salary or compensation from the partnership for personal services

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(including any amounts allowed to the partnership as a deduction for the period prior to March 1, 1918).

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2613.)

Excess-profits tax.

Deduction allowed to partnerships for interest on bona fide loans by partners.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

In computing net income for purposes of the excess-profits tax a partnership will be allowed to deduct amounts paid during the year to an individual partner as interest upon any bona fide loan, but no deduction for so-called interest upon capital will be recognized.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2614.)

Excess-profits tax.

When a return of information as to the invested capital and net income for the prewar period will not be required.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1917.

To collectors of internal revenue, revenue agents, and others concerned:

For the purposes of the excess-profits tax a return of information with respect to the invested capital and net income *for the prewar period* will not be required of a corporation, partnership, or individual in the following cases:

(1) If the taxpayer accepts the minimum percentage, viz, 7 per cent, as the percentage to be used in computing the deduction under section 203; or

(2) If the trade or business is taxable only at the 8 per cent rate under section 209.

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The foregoing must not be construed as not requiring a return of information as to all facts which may be necessary for the ascertainment of the capital and income *for the taxable year* whenever such a return is required by the Commissioner of Internal Revenue.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2615.)

Corporation tax.

Extending time in which to file returns of annual net income by corporations pursuant to the requirements of Titles I and II of the act of October 3, 1917, for a fiscal year ended on the last day of some month during the year 1917 (except Dec. 31, 1917).

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1917.

To collectors of internal revenue:

The provisions of T. D. 2561 of October 16, 1917, extending the time to January 1, 1918, to corporations filing returns for war income and war excess-profits taxes, pursuant to the act of October 3, 1917, on the basis of a fiscal year ended on the last day of some month during the year 1917 (except Dec. 31, 1917), are hereby amended so as to extend the time of filing such returns until February 1, 1918. This extension applies also to returns of annual net income of such corporations which were due subsequent to October 16, 1917, the date of T. D. 2561, but prior to February 1, 1918.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2616.)

Income tax.

Gifts or bonuses to employees of corporations, partnerships, or individuals.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 11, 1917.

To collectors of internal revenue:

In order to establish uniformity and to facilitate the work of internal-revenue officers who are engaged in the examination of books for the verification of returns of annual net income made

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pursuant to the requirements of the Federal income-tax law, you are informed that special payments, sometimes denominated gifts or bonuses, made by corporations, partnerships, or individuals to officers or employees, will constitute allowable deduction from gross income in ascertaining net income for the purpose of the income tax, when such payments are made in good faith and as additional compensation for the services actually rendered by the officers or employees. If such payments when added to the stipulated salaries do not exceed a reasonable compensation for the services rendered, they will be regarded as a part of the wage or hire of the officer or employee, and therefore an ordinary and necessary expense of operation and maintenance, and as such will be deductible from gross income.

Special payments made to officers or employees, although in the form of additional salaries or compensation, will be regarded as a special distribution of profits or compensation for the capital invested, and not as payment for services rendered, if the amount of such payments is based upon or bears a close relationship to the stock holdings of such officers or employees, or to the capital invested by them in the business. Payments under such latter conditions being in the nature of dividends or distribution of profits will not be deductible from gross income.

Salaries of officers or employees who are stockholders or have an interest in the business will be subject to careful analysis, and if they are found to be rather in proportion to the stock holdings or interest of such officers and employees than to the real value of the services rendered and to be in excess of the salaries paid to officers or employees in similar positions in other concerns doing business of a like nature and of approximately equal volume and earnings, the amount paid in excess of reasonable compensation for the services will not be deductible from gross income, but will be treated as a distribution of profits.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2617.)

Distilled spirits.

Notice of change in price for gauging rods.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1917.

To collectors of internal revenue and others concerned:

In making application for the standard gauging rod or any part thereof the price of the rod or of the part desired must be forwarded

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in a money order or draft to the National Metropolitan Bank, Washington, D. C., payable to the order of that bank. In no instance must the remittance be sent to this office or be made payable to the commissioner, but application must be made to the commissioner separately, as heretofore, at the same time when the remittance to the bank is made.

Hereafter the following prices for the rods and parts thereof will prevail:

44-inch solid metal rod, complete	$12.00
44-inch solid metal rod proper	5.04
44-inch fixed caliper	1.80
44-inch sliding caliper	1.56
44-inch mean diameter scale	2.40
44-inch head slide	1.20
62-inch solid metal rod, complete	15.00
62-inch solid metal rod proper	6.25
62-inch fixed caliper	2.12
62-inch sliding caliper	2.00
62-inch mean diameter scale	3.13
62-inch head slide	1.50

Collectors will furnish a copy of this communication to each gauging officer in their respective districts, and give the information herein contained as wide publicity as possible, as any deviation from the above instructions may result in delay in filling orders.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2618.)

Fermented malt liquors.

Limitation of materials to be used in production of fermented malt liquors and of alcoholic content of such liquors under food-control act of August 10, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 21, 1917.

To collectors of internal revenue, brewers, and others concerned:

Under date of December 8, 1917, the President of the United States issued the following proclamation:

Whereas, under and by virtue of an act of Congress entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved by the President on August 10, 1917, it is provided in section 15, among other things, as follows:

Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors

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for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of foods, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked, no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof.

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers conferred on me by said act of Congress, do hereby find and determine that the national security and defense will be subserved by the limitation of the amount of foods, fruits, food materials, and feeds used in the production of malt liquor, and by reduction of the alcoholic content of malt liquor produced in the United States. And by this proclamation I prescribe and give public notice that on and after January 1, 1918, the total amount of foods, fruits, food materials, and feeds used by any person in the production of malt liquor shall not exceed seventy per cent (70%) of the average consumption of any such foods, fruits, food materials, or feeds in the production of such malt liquor by such person during the period from January 1, 1917, to January 1, 1918, the unit of time to be fixed by regulation; and that on and after January 1, 1918, no malt liquor except ale and porter shall be produced in the United States containing more than two and three-quarters per cent (2.75%) of alcohol by weight.

No person shall, after January 1, 1918, use any feeds, fruits, food materials, or foods in the production of malt liquor, unless he secures a license so to do, to be issued by the Commissioner of Internal Revenue, and complies with rules and regulations to be hereafter promulgated governing the production of such liquor and the alcoholic content thereof; and no person shall import any such liquor except under license to be issued by the Division of Customs, Treasury Department, and in compliance with any rules and regulations governing the importation of such liquors which may be promulgated.

In view of the foregoing proclamation, notice is hereby given that on and after January 1, 1918, the alcoholic content of fermented malt liquor produced in the United States (except ale and porter) must in no case exceed 2¾ per cent of alcohol by weight; nor shall the amount of grain or other food or feed material used by any brewer in the production of fermented malt liquor for any quarter exceed 70 per cent of the amount of grain or other food or feed material used by such brewer in the production of fermented liquor during the corresponding quarter for the calendar year 1917. In case of a brewer who produces ale or porter and some other kind or kinds of fermented liquor on the same brewery premises, the 70 per cent limitation will be applied separately to the ale or porter and to the other kind or kinds of fermented liquors. In case a brewery was not in operation during the corresponding quarter of the year 1917, the figures for the last corresponding quarter in which the brewery was in operation will be taken as a basis for computation. In a case where a brewery was never operated during a corresponding quarter the brewer will be limited to 70 per cent of the normal capacity of the brewery with the apparatus now

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installed. Where there has been a succession to the business conducted on the same brewery premises, the quantity used each quarter by the predecessor or predecessors in business on the same premises will be taken into account in determining the quantity of material to be used.

In case two or more breweries effect a bona fide consolidation of their business for the purpose of economy, such as conservation of fuel, reduction of overhead charges, or for other good and sufficient reasons, the computation of 70 per cent will be made on the combined materials of the breweries thus consolidated, based on the quarterly periods for the calendar year 1917.

Every brewer who intends to produce fermented malt liquor on and after January 1 1918, is hereby required to apply to the collector of internal revenue of the district in which he is located for a license to operate under the food-control act. This application will be made in duplicate on paper 8 by 10½ inches in size and will be delivered to the collector of internal revenue, who will indorse his approval with the date thereon. The collector will retain one copy and deliver the other copy to the applicant. The application after approval for the purpose of these regulations becomes a license. The form for application should be made either in typewriting, or by mimeograph or multigraph, or in print. Failure to apply for and obtain license will necessitate discontinuance of the production of fermented malt liquor on and after January 1, 1918; otherwise, the brewer will be subject to the penalties denounced for violation of the food-control act of August 10, 1917. The application for license should be substantially in the following form:

Treasury Department,
U. S. Internal Revenue.
Form ——.

——— (Date)

Application for license to produce fermented malt liquors on and after January 1, 1918, with the collector's approval thereon.

To the Collector of Internal Revenue,
—— District of ———.

The undersigned brewer, operating a brewery at ——— Street, city of ———, State of ———, in the —— collection district of ———, hereby applies for a license to operate the said brewery in conformity with the food-control act of August 10, 1917, and regulations thereunder. Said brewer undertakes to comply with all the requirements of said law and regulations, including the limiting of the product of said brewery (except as to ale and porter) to fermented malt liquors containing not more than 2¾ per cent of alcohol by weight and limiting the quantity of grain or other food or feed material to be used in the production of fermented malt liquor during each quarter commencing with January 1, 1918, to 70 per cent of the quantity of grain or other food or feed material used by such brewer during the corresponding quarter of the calendar year 1917, or in exceptional cases, as otherwise provided by the regulations.

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The applicant agrees that any violation on his part shall operate as a revocation of this license. This permit or license to be surrendered to the collector when business is discontinued by the holder.

(Signed) ——— ———,
(Address) ———.

Approved this —— day of ———, 19—.
By authority of the Commissioner,
———,
Collector of Internal Revenue,
—— District of ———.

The application having been approved by the collector of internal revenue, one copy bearing such approval will be delivered to the applicant and will constitute his license and must be posted conspicuously on the premises. Any violation of these regulations observed by internal-revenue officers will be reported to their immediate superiors and referred in due course to the Commissioner of Internal Revenue. Officers having reason to suspect that the contents of any package sent out from any brewery premises has an alcoholic content exceeding 2¾ per cent will forward a sample to this office for analysis, sealing and labeling the same in the usual manner. At the time the sample is drawn from the bulk container for the purpose of forwarding it to the laboratory a five-grain tablet of bichloride of mercury (poison) should be immediately added to the sample in order to arrest fermentation, and keep the alcohol the same as when the sample was drawn. When the tablet is dissolved the sample should be mixed by shaking. The label must be specifically marked "Poison," and any officer who poisons and omits to so state on the label may be recommended for dismissal.

Brewers producing fermented malt liquors under the provisions of these regulations on and after January 1, 1918, must conserve from the residue the animal feed. The slops may be conserved by feeding at the brewery, sold as slops for feed, or be dried and shipped. Breweries now in operation without necessary facilities for conserving the slops will be required to install by January 1, 1918, or as soon thereafter as possible, equipment for drying or utilizing the slop or residue as feed for animals. Brewers who fail to comply promptly with these regulations will not be provided with a license by the collector and if a license has been issued and the brewer neglects or refuses to install the necessary equipment or dispose of the cattle feed as herein required, the license will be revoked and forfeited.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2619.)

Facilities furnished by public utilities.

Telephone, telegraph, and radio messages in connection with Government business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 19, 1917.

To collectors of internal revenue and others concerned:

Under section 502 of the act of Congress approved October 3, 1917, telephone, telegraph, and radio messages, conversations, and dispatches relating to Government business, which originate in the United States and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from the funds thereof, are exempt from the tax imposed by section 500 (e) of the aforesaid act. Messages, conversations, and dispatches which are not paid from such funds are not exempt from tax, even though they relate to Government business.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2620.)

Income tax—Decision of court.

Dividends paid by a lessee corporation directly to the stockholders of the lessor corporation constitute income of the lessor corporation under the act of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 17, 1917.

To collectors of internal revenue and others concerned:

The appended decision of the United States Circuit Court of Appeals for the First Circuit in the case of the West End Street Railway Co. *v.* John F. Malley, collector of internal revenue, is published for the information of internal-revenue officers and others concerned.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT. OCTOBER TERM, 1917.

West End Street Railway Co. v. *John F. Malley, collector* (*1248.*)

ERROR to the District Court of the United States for the District of Massachusetts.

Before DODGE, ALDRICH, and BROWN, Circuit Judges.

DODGE, Judge: These two writs of error, brought by the plaintiff and defendant, respectively, in a suit to recover back taxes paid under protest to the internal-revenue

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collector, seek the reversal of a judgment below in the plaintiff's favor for $2,608.17. The district court, having heard the case by consent without a jury, on agreed facts, found for the plaintiff in the above amount under the first count of its declaration, but found for the defendant collector under the remaining second count thereof.

The plaintiff, a street railway corporation, having leased its lines and property to the Boston Elevated Railway Co. in 1897, has not since operated them itself. They have been operated by the lessee, which has regularly made rental payments called for by the lease for the right to operate said road thereunder. This lease is before us in full, as part of the agreed facts. It was made years before the enactment of either statute hereinafter considered.

(1) The taxes in question under the first count were assessed under section 38 of the corporation-tax law of 1909 (36 Stats., 112) for the period January 1–February 28, 1913. The district court held that the plaintiff was not "a corporation engaged in business" during said period within the meaning of that statute, and therefore not subject to the tax imposed by it. The question thus presented we regard as controlled against the Government's view by the reasoning and result in New York Central, etc., Co. *v.* Gill (219 Fed., 184), decided by this court in 1915—the subsequent decisions cited by the district court in its opinion in the present case—and the following still later decisions: McCoach *v.* Continental, etc., Co. (233 Fed., 976), Jasper, etc., Co. *v.* Walker (238 Fed., 533). We find nothing in the agreed facts now before us which we can regard as sufficiently distinguishing this case from those dealt with in said decisions to warrant us in holding the district court's conclusion erroneous.

(2) The taxes in question under the second count were assessed under the later income-tax statute of 1913 (38 Stats., 166, 172) for the period March 1–December 31, 1913. In accordance with provisions in the lease, the lessee company paid, on stipulated dates in each year, to the persons holding shares of the plaintiff's stock and certified by it as then entitled to dividends, certain stipulated sums per share held. The district court held that the total amount so paid by the lessee during the above period was income of the plaintiff corporation as lessor, and did not cease to be such because not paid directly to it. The plaintiff contends that said amount was not properly taxable as its income under the statute.

The payments made to stockholders as above were made by the lessee for its use of the corporation's property, not of the stockholder's property. Though they have each an interest in said property, they have no direct interest such as makes them its owners.

The property has been put into the lessee's hands by the lessor corporation, and the payments to be made by the lessee for its use have been agreed on, not between the lessee and the lessor's stockholders, but between it and the lessor corporation to which the property belongs. That agreement expressly refers to and treats these payments to stockholders as part of the agreed rent for the property. Under it no stockholder could assert rights as lessor for want of any such interest in the leased property as would have enabled him to lease it or agree upon a rent for it.

No benefit to the lessee, beyond that which would result to it from the lease if all the rental payments called for were thereby made payable directly to the lessor, is secured to it by the provisions of the lease that it shall divide this part of the rent among those who may be the lessor's stockholders from time to time. Those agreements are effective only to spare the lessor the trouble and expense of making the division itself. The lessee's assumption of this trouble and expense is part of the consideration to the lessor agreed upon for the use of its property.

That the lessor railroad could recover the agreed payments to its stockholders by suit in its own name is undisputed. Whether the individual stockholders have rights of action therefor in their own names is at least uncertain. If they have such rights, they are not founded upon any title of the stockholders' own, but upon that of their corporation only. We agree with the opinion of the district court that the

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total of these so-called dividends was, within the meaning of the statute, "income arising or accruing" to the corporation. The district court's conclusion is supported by a Court of Appeals decision. Anderson *v.* Morris, etc., Co. (216 Fed., 83, 90). Though it was the corporation-tax act of 1909, which was there under consideration, a question was passed upon was whether or not such dividends paid to stockholders by the lessee were part of the lessor's "entire net income * * * received by it from all sources" during the year; and the court in effect held that it was. The inquiry in this case is whether such dividends are part of the lessor's "entire net income * * * arising or accruing from all sources" to it during the year. So far as the difference in phraseology is of any significance it favors a more, rather than a less, inclusive construction. This decision having been followed by Judge Ray in the same circuit, since the decision here appealed from (Rensselaer, etc., Co. *v.* Irwin, 239 Fed., 739), in a case arising, like this, under the income-tax statute of 1913, we are unable to find sufficient reason for a refusal to follow it in this circuit.

(3) The district court ordered that costs should not be allowed to either party, and this ruling is assigned as error by the plaintiff West End Co. Having prevailed on its first count, though unsuccessful on its second count, we think it was entitled to its costs, according to the usual rule in cases where the prevailing party recovers less than he claims in a suit at law, but not less than the $500 necessary to carry costs under Revised Statutes (sec. 968). No question as to items of the taxation is before us.

The judgment of the district court is affirmed, except so far as it denies costs to the plaintiff, to which extent it is reversed, and the case is remanded to that court for further proceedings in accordance with this opinion. Each defendant in error recovers its costs in this court.

ALDRICH, Judge, dissenting.

(T. D. 2621.)

Munition manufacturers' tax.

War excess profits tax not deductible in ascertaining net munition income for purpose of measuring munitions excise tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 24, 1917.

To collectors of internal revenue and others concerned:

The munition manufacturers' tax, Title III, section 301, of the act of September 8, 1916, is an excise tax and not an income tax. It is measured by the net income ascertained as provided by section 302, Title III, act of September 8, 1916. Paragraph (d) of said section 302 provides for deduction from "gross income received or accrued from the sale or disposition" of the product of munitions business "(d) taxes of all kinds paid during the taxable year with respect to the business or property relating to the manufacture."

The net income by which the war excess profits tax is to be measured is the net income determined for income-tax purposes, but without the deduction of income or excess profits tax paid within the year. The tax upon this income is in addition to and has no taxable relation to any other tax.

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The net income subject to income tax is the difference between gross income as defined by the income-tax law and the several deductions provided by that act. The deductions provided must not include "income or excess profits tax." Section 29, act of September 8, 1916, as amended by the act of October 3, 1917, permits this net income, for the purpose of assessment of income tax, to be reduced by the amount of war excess profits tax assessed for the same calendar or fiscal year.

To be deductible for the purpose of munitions tax, a tax must have been paid within the taxable year "with respect to," that is, concerning or because of the business of munitions manufacture, or to have been paid on "property relating to the manufacture," that is, a tax on property having a special reference to the manufacture of munitions.

The war excess profits tax is not levied in respect of any business or on any property used in or relating to manufacture, but (in the language of section 201, act of October 31, 1917), is "in addition to the taxes under existing law and under this act." It is therefore not deductible under paragraph (d), section 302, Title III, act of September 8, 1916, in ascertaining net income from munitions manufacture for the purpose of measuring the excise charge on the business of munitions manufacture.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2622.)

Advance payments in installments and in whole of income and excess profits taxes under section 1009, act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 26, 1917.

To collectors of internal revenue and others concerned:

Section 1009 of the act of October 3, 1917, provides as follows:

SEC. 1009. That the Secretary of the Treasury, under rules and regulations prescribed by him, shall permit taxpayers liable to income and excess profits taxes to make payments in advance in installments or in whole of an amount not in excess of the estimated taxes which will be due from them, and upon determination of the taxes actually due any amount paid in excess shall be refunded as taxes erroneously collected: *Provided*, That when payment is made in installments at least one-fourth of such estimated tax shall be paid before the expiration of thirty days after the close of the taxable year, at least an additional one-fourth within two months after the close of the taxable year, at least an additional one-fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment: *Provided further*, That the Secretary of the Treasury,

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under rules and regulations prescribed by him, may allow credit against such taxes so paid in advance of an amount not exceeding three per centum per annum calculated upon the amount so paid from the date of such payment to the date now fixed by law for such payment; but no such credit shall be allowed on payments in excess of taxes determined to be due, nor on payments made after the expiration of four and one-half months after the close of the taxable year. All penalties provided by existing law for failure to pay the tax when due are hereby made applicable to any failure to pay the tax at the time or times required in this section.

If taxpayers elect to make advance partial payments on their income or excess profits taxes, or both, as provided by section 1009 of the act of October 3, 1917, at least one-fourth of the estimated tax due must be paid within 30 days after the close of the taxable year, at least an additional fourth within two months after the close of the taxable year, at least an additional fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment. For the first taxable year, this means, in the case of partnerships and corporations who do not fix their own fiscal years and in the case of individuals, that at least one-fourth of the estimated tax due must be paid on or before January 30, 1918, at least an additional fourth on or before February 28, 1918, at least an additional fourth on or before April 30, 1918, and the remainder of the tax due on or before June 15, 1918. In the case of a partnership or corporation whose fiscal year ends July 31, for example, at least one-fourth of the estimated tax due must be paid on or before August 30, at least an additional fourth on or before September 29, at least an additional fourth on or before November 28, and the remainder of the tax due on or before January 12, 165 days after the close of its fiscal year. Taxpayers are not allowed under these regulations to make advance payments in installments or in whole before the close of their taxable year. Upon the first three installments, interest at the rate of 3 per cent per annum (365 days) will be allowed from the date each payment is made to the date now fixed by law for such payment. If the final payment is made within 4½ months after the close of the taxable year, interest at the rate of 3 per cent per annum (365 days) will be allowed from the date of payment to the date now fixed by law for such payment.

In arriving at the amount of the fourth installment required to satisfy the assessed tax, it will be necessary to find the difference between the assessed tax and the sum of the first three installments and the interest at 3 per cent per annum (365 days) on same from the dates of payment to the date now fixed by law for such payment. This difference will be the amount of the fourth installment, if said installment is paid after the expiration of 4½ months after the close of the taxable year, since section 1009 provides that no credit for interest shall be allowed on payments in excess of taxes determined

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to be due, nor on payments made after the expiration of 4½ months after the close of the taxable year.

If the fourth installment is paid before the expiration of 4½ months after the close of the taxable year, the amount of such installment will be found by dividing the difference mentioned in the preceding paragraph by 1.00 plus the interest at 3 per cent per annum (365 days) on $1 for the number of days from the date on which said fourth installment is paid to date now fixed by law for such payment.

For example, a taxpayer on January 15, 1918, files an income or excess profits tax return showing a tax liability of $4,000 and with the return makes partial payment of $1,000; February 25, 1918, makes a second payment of $1,000; March 25, 1918, a third payment of $1,000; and the balance May 1, 1918.

The first payment draws interest at the rate of 3 per cent per annum from January 15 to June 15, 151 days (in January, 16; February, 28; March, 31; April, 30; May, 31; and June, 15), or $12.41, amount $1,012.41; the second payment, 110 days (February, 3; March, 31; April, 30; May, 31; and June, 15), or $9.04, amount $1,009.04; and the third payment, 82 days (March, 6; April, 30; May, 31; and June, 15), or $6.74 ($6.739), amount $1,006.74. The sum of the three payments and interest thereon is $3,028.19, making the difference $971.81. The amount to be paid on May 1, 1918, to satisfy this difference is found by dividing $971.81 by 1.00369863, the "amount" of $1 for 45 days (May, 30; and June, 15), at 3 per cent, to be $968. 23 ($968.228).

If, in the example given above, the fourth payment were made May 16, 1917, the taxpayer would be required to pay the whole of the difference, $971.81, as no interest would be allowable on same under the law.

If the taxpayer elects to pay the whole of the tax in advance, that is, after the close of the taxable year and prior to the expiration of 4½ months after the close of the taxable year, the amount to be paid to satisfy the tax will be determined by dividing the amount of said tax by 1.00 plus the interest on $1 at 3 per cent per annum (365 days) for the number of days from the date of payment to the date now fixed by law for such payment.

If the advance payment in whole is made at the time of filing the return, and if upon the examination of such return in this office, it is found that the payment was in excess of the amount required, together with the interest thereon to satisfy the tax actually due, the taxpayer will be entitled to the refund of the amount of excess payment (but not the interest thereon) by making claim for same on Form 46.

In arriving at the amount of excess payment, the tax assessed should be divided by 1.00 plus the interest at 3 per cent per annum (365 days) on $1 for the number of days from the date of payment to the date now fixed by law for such payment. The difference between the

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amount actually paid in advance and the quotient will be the amount of excess payment.

The interest at the rate of 3 per cent per annum (365 days), allowed to a taxpayer on advance payments on income and excess profits taxes, must be considered income and accounted for as income by the taxpayer in his return for the year in which said interest is allowed.

The receipt on Form 1 issued to a taxpayer making an advance payment should have entered thereon the amount of such payment, the kind of such payment, whether "in whole" or the first, second, third, or fourth installment, and also the amount of credit allowable on account of the interest at 3 per cent per annum (365 days) for the number of days from the date of payment to the date now fixed by law for such payment, the sum of the two being the amount of credit to which the taxpayer is entitled on the tax due.

If an advance payment, either in whole or in part, is made prior to making the assessment, it should be entered on Form 58 A or 58 B, in the column for "Assessable items" and the amount of interest allowed on such advance payment in the column for "Interest allowed on advance payments under section 1009 of the act of October 3, 1917." The entry should show the kind of payment, whether "in whole" or the first, second, third, or fourth installment. The sum of the entries in column "Interest allowed on advance payments under section 1009 of the act of October 3, 1917," will be included in the total of the list and charged to the collector. Credit in the collector's account for this charge will be obtained as provided below.

If the return is filed after one or more advance partial payments have been made, the assessment on Form 23 A or 23 B will be the difference between the total tax due and the sum of such advance partial payments and interest allowed thereon. The entry on Form 23 A or 23 B in the column for "Remarks" will give the total tax due and make reference by page and line to previous advance payments.

An advance payment and interest thereon on an assessment already made will be credited to the list in which such assessment has been made.

On Form 51 B for the month in which such advance payments in installments or in whole are made collectors will take credit in column 5 of the statement of each list on which the taxes are assessed or are to be assessed for the sum of the credits allowed on account of interest on such payments from the dates paid to the date now fixed by law for such payments. As a voucher for these credits a schedule will be prepared for each list on which such payments are made, giving the names of the taxpayers making such payments arranged in the order in which the names are entered on the list and the folio and line where assessed, the date of payment, the kind of payment, whether "in whole" or the first, second, third, or fourth installment, the amount

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of payment, the amount of interest on same, and the sum of the payment and interest. The payment column, the interest column, and the column for the sum of the payment and interest should be added, and the total of the third will equal the sum of the totals of the first two. The credit taken in column 5 on Form 51 B will be the total of the interest column. In the case of such advance payments on the list for month in which such payments are made, to keep the statement of "Advance collections on list for this month" in balance, it will be necessary to charge in column 2 on Form 51 B the sum of the credits taken in columns 3 and 5; and, in taking up such a list on Form 51 B for the month in which said list is received from the commissioner, the total of said list should be entered at the left of column 2 and underneath the amount previously reported on Form 51 B in column 2 of the statement of "Advance collections on list for this month," and the balance charged in column 2.

On Form 79 the amount of interest allowed on such advance payments made within the quarter will be charged on line 5, and the schedules required by the preceding paragraph will be forwarded by this office to the auditor as vouchers for this charge.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

INTEREST TABLE TO ACCOMPANY T. D. 2622.

Interest on $1 at 3 per cent per 365 days, 1 day to 165 days.

Days.	Interest.	Days.	Interest.	Days.	Interest.
1	$0.000082192	26	$0.002136986	51	$0.004191781
2	.000164384	27	.002219178	52	.004273973
3	.000246575	28	.002301370	53	.004356164
4	.000328767	29	.002383562	54	.004438356
5	.000410959	30	.002465753	55	.004520548
6	.000493151	31	.002547945	56	.004602740
7	.000575342	32	.002630137	57	.004684932
8	.000657534	33	.002712329	58	.004767123
9	.000739726	34	.002794521	59	.004849315
10	.000821918	35	.002876712	60	.004931507
11	.000904110	36	.002958904	61	.005013699
12	.000986301	37	.003041096	62	.005095890
13	.001068493	38	.003123288	63	.005178082
14	.001150685	39	.003205479	64	.005260274
15	.001232877	40	.003287671	65	.005342466
16	.001315068	41	.003369863	66	.005424658
17	.001397260	42	.003452055	67	.005506849
18	.001479452	43	.003534247	68	.005589041
19	.001561644	44	.003616438	69	.005671233
20	.001643836	45	.003698630	70	.005753425
21	.001726027	46	.003780822	71	.005835616
22	.001808219	47	.003863014	72	.005917808
23	.001890411	48	.003945205	73	.006000000
24	.001972603	49	.004027397	74	.006082192
25	.002054795	50	.004109589	75	.006164384

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INTEREST TABLE TO ACCOMPANY T. D. 2622—Continued.

Interest on $1 at 3 per cent per 365 days, 1 day to 165 days—Continued.

Days.	Interest.	Days.	Interest.	Days.	Interest.
76	$0.006246575	106	$0.008712329	136	$0.011178082
77	.006328767	107	.008794521	137	.011260274
78	.006410959	108	.008876712	138	.011342466
79	.006493151	109	.008958904	139	.011424658
80	.006575342	110	.009041096	140	.011506849
81	.006657534	111	.009123288	141	.011589041
82	.006739726	112	.009205479	142	.011671233
83	.006821918	113	.009287671	143	.011753425
84	.006904110	114	.009369863	144	.011835616
85	.006986301	115	.009452055	145	.011917808
86	.007068493	116	.009534247	146	.012000000
87	.007150685	117	.009616438	147	.012082192
88	.007232877	118	.009698630	148	.012164384
89	.007315068	119	.009780822	149	.012246575
90	.007397260	120	.009863014	150	.012328767
91	.007479452	121	.009945205	151	.012410959
92	.007561644	122	.010027397	152	.012493151
93	.007643836	123	.010109589	153	.012575342
94	.007726027	124	.010191781	154	.012657534
95	.007808219	125	.010273973	155	.012739726
96	.007890411	126	.010356164	156	.012821918
97	.007972603	127	.010438356	157	.012904110
98	.008054795	128	.010520548	158	.012986301
99	.008136986	129	.010602740	159	.013068493
100	.008219178	130	.010684932	160	.013150685
101	.008301370	131	.010767123	161	.013232877
102	.008383562	132	.010849315	162	.013315068
103	.008466753	133	.010931507	163	.013397260
104	.008547945	134	.011013699	164	.013479452
105	.008630137	135	.011095890	165	.013561644

(T. D. 2623.)

Income tax.

Interest on bank deposits paid to nonresident alien individuals and corporations is subject to withholding provisions of the act of October 3, 1917.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1917.

To collectors of internal revenue and others concerned:

Nonresident alien individuals and corporations are required to pay tax upon all income received in the calendar year from sources within the United States except exempt sources. Interest received from deposits in banks located within the United States constitutes income received from sources within the United States and is subject to the withholding provisions of the act of September 8, 1916, as amended by the act of October 3, 1917. Banks are therefore required to withhold the normal tax of 2 per cent upon interest paid to nonresident alien individuals and the normal tax of 2 per cent and the war normal tax of 4 per cent upon interest paid to a nonresident alien corporation

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"not engaged in business or trade within the United States and not having any office or place of business therein."

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2624.)

War-revenue act—Bonds.

Bonds given by officials of a State, township, county, or village for the faithful performance of duties not subject to the stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 14, 1917.

To collectors of internal revenue:

You are hereby informed that bonds given by officials of a State, township, county, or village for the faithful performance of duties, and any bonds given to the same political subdivisions covering contracts for governmental purposes or the protection of the State, township, county, village, or municipality, in any respect, are held to be free from Federal taxation on the broad ground that the sovereign States and subdivisions thereof are constitutionally free from taxation by the Federal Government.

You will note that this ruling does not apply to bonds otherwise taxable given to the Federal Government for any purpose.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

(T. D. 2625.)

Income tax.

Accrued interest deductible from gross income.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 17, 1917.

To collectors of internal revenue:

The income-tax law of October 3, 1913, imposes a tax "upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint-stock company or association, and every insurance company organized in the United States, no matter how created or organized."

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Under section 13 (d) of the act of Congress approved September 8, 1916, it is provided:

A corporation, joint-stock company or association, or insurance company, keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make its return upon the basis upon which its accounts are kept, in which case the tax shall be computed upon its income as so returned.

These provisions of law authorize corporations and joint-stock companies or associations and insurance companies, keeping books of account on an accrued basis, to deduct from gross income in returns of annual net income the accrual of interest for the return year within the limits prescribed by the taxing acts when shown as a charge against accrued income upon the books of account.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2626.)

Estate tax—Act of September 8, 1916.

Table to be used in determining the value of one's life interest in an estate vested in another.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 6, 1917.

To collectors of internal revenue and others concerned:

Title II of the act of September 8, 1916, imposes a tax upon the transfer of the net estates of decedents. In determining the present net worth of a vested estate of a decedent which is subject to the usufruct or life interest of another the value of the life interest is deductible. In arriving at the value of the life interest the following table should be used.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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Table showing age of person having a life interest, the expectation period of enjoyment of the life interest, and the present value of $1 usufruct on a 4 per cent basis.

[To be used in determining the present worth of one's life interest in the vested estate of another.]

Age.	Expectation of enjoyment (years).	Present value of $1 usufruct on a 4 per cent basis.	Age.	Expectation of enjoyment (years).	Present value of $1 usufruct on a 4 per cent basis.
0	39.179	$14.72839	50	18.113	$12.47032
1	40.552	17.30771	51	17.527	12.17919
2	39.626	18.69578	52	16.947	11.88408
3	39.572	19.15901	53	16.372	11.58531
4	39.702	19.41226	54	15.804	11.28325
5	39.852	19.55301	55	15.243	10.99789
6	39.654	19.61731	56	14.689	10.66982
7	39.691	19.62502	57	14.143	10.35931
8	39.625	19.61097	58	13.603	10.04620
9	39.264	19.53413	59	13.072	9.73131
10	38.891	19.45359	60	12.549	9.41474
11	38.507	19.36943	61	12.029	9.09765
12	38.113	19.28184	62	11.532	8.78052
13	37.710	19.19065	63	11.039	8.46412
14	37.298	19.09590	64	10.557	8.14888
15	36.877	18.99764	65	10.088	7.83552
16	36.447	18.89569	66	9.630	7.52476
17	36.010	18.79010	67	9.185	7.21699
18	35.565	18.68070	68	8.753	6.91298
19	35.113	18.56751	69	8.333	6.61301
20	34.652	18.45038	70	7.926	6.31716
21	34.186	18.32932	71	7.582	6.02612
22	33.711	18.20416	72	7.151	5.74003
23	33.230	18.07471	73	6.782	5.45928
24	32.742	17.94097	74	6.425	5.18402
25	32.248	17.80274	75	6.081	4.91463
26	31.747	17.65984	76	5.749	4.65225
27	31.239	17.51224	77	5.428	4.39383
28	30.725	17.35968	78	5.119	4.14286
29	30.205	17.20225	79	4.823	3.89858
30	29.678	17.03961	80	4.537	3.66071
31	29.147	16.87176	81	4.262	3.42900
32	28.608	16.69846	82	3.995	3.20258
33	28.067	16.51964	83	3.737	2.98024
34	27.516	16.33503	84	3.484	2.76106
35	26.961	16.14437	85	3.236	2.54366
36	26.401	15.94755	86	2.992	2.32795
37	25.834	15.74427	87	2.752	2.11384
38	25.263	15.53421	88	2.517	1.90115
39	24.685	15.31722	89	2.286	1.69107
40	24.101	15.09295	90	2.062	1.48540
41	23.511	14.86102	91	1.845	1.28432
42	22.915	14.62122	92	1.637	1.09024
43	22.313	14.37356	93	1.442	.90647
44	21.706	14.11860	94	1.263	.73687
45	21.103	13.85713	95	1.103	.58435
46	20.499	13.58958	96	.975	.46182
47	19.896	13.31698	97	.877	.36696
48	19.298	13.03942	98	.746	.24038
49	18.703	12.75716	99	.500	.00000

(T. D. 2627.)

Instructions relative to acceptance of uncertified checks.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1917.

To collectors of internal revenue:

In accordance with the provisions of section 1010 of the act of October 3, 1917, collectors may accept uncertified checks in payment of income and excess profits taxes. If such check is not paid by the bank on which it is drawn, the person by whom it has been tendered

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shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been received.

Such uncertified checks as the depositary bank is willing to accept should be included in the certificate of deposit issued to the collector.

All other uncertified checks will be carried by the collector as "cash on hand" and not credited as "collections," as the dates of the certificates of deposit determine the dates of collections.

The date on which the collector receives the check will be considered the one on which payment is made, unless the check is returned dishonored.

Such uncertified checks as the depositary bank is not willing to accept for immediate credit may be *deposited for collection* by the collector of internal revenue to his official credit, under his bond, with a regular depositary bank, and when the check or checks have been collected the proceeds should be immediately deposited by him with his other collections for the day. At the same time the collector will charge his account "cash on hand" and credit the taxpayer from whom the particular uncertified check was received.

DANIEL C. ROPER,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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